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Senate

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

PRAYER

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

Let us pray.

Lord, we wait for You and in Your Word do we place our hope. Help us never to run ahead of You. Quiet our doubts and calm our fears as You remind us that many things are better left to You.

Challenge our lawmakers today to put their trust and hope in You. Encourage them with the fact that You know their works and their motives. Help them to know that You will guide them with Your providence if they will only seek Your will in all things.

Open all of our eyes to Your presence among us in the kind deeds and generous acts that we encounter along life's journey. Let Your grace transform us and Your mercy keep us on the path of faithfulness.

We pray in Your wonderful 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.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to a period of morning business for up to 1 hour, with the first 30 minutes under the control of the Democratic leader or his designee and the remaining 30 minutes under the control of the majority leader or his designee.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we begin with a 60-minute period for morning business, with that time equally divided. Following morning business, we will return to the debate on S. 2454, the border security bill. The consent agreement from yesterday provides that the time until 12 noon be equally divided for debate only.

At noon, Chairman SPECTER will be here to offer an amendment. There will then be a period for general debate until 5 p.m. this afternoon.

Today Senators should have the opportunity to offer amendments, and I hope we can debate and vote on some of those amendments. Today is only Thursday, and we will be working today and tomorrow on this bill, and I think we can make good progress over the course of this week. I encourage Members to get their amendments ready and contact the managers when they are prepared to get into a lineup to offer their amendments.

We expect votes today on the border security bill, and I will be working with the Democratic leader and the two bill managers to set up a vote as early as possible this afternoon.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, has the Chair announced morning business?

The PRESIDENT pro tempore. The Chair has announced morning business.

Mr. REID. Mr. President, the first 20 minutes would be yielded to the Senator from Colorado, Mr. SALAZAR.

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

Mr. REID. I see the Senator from Louisiana. It is my understanding she and Senator KERRY need 10 minutes.

How much time does the Senator from Louisiana need?

Ms. LANDRIEU. Ten minutes.

Mr. REID. OK. So 20 minutes to Senator SALAZAR and 10 minutes to Senator LANDRIEU.

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

The Senator from Colorado.

IMMIGRATION REFORM

Mr. SALAZAR. Mr. President, I rise this morning to speak in support of the immigration reform bill which has been produced out of our Judiciary Committee. I wish to first congratulate Senator SPECTER and Senator LEAHY for their leadership in that effort in the Judiciary Committee. I also wish to congratulate all of my colleagues, Republicans and Democrats, who have come together in support of this historic measure that is now before the Senate.

I believe this measure truly represents the kind of bipartisan spirit that leads to the best policy creation for our country. I am also proud of the eight sponsors of the McCain-Kennedy bill, including Senator MCCAIN and Senator GRAHAM, Senator BROWNBACK, Senator MARTINEZ, Senator KENNEDY, Senator LIEBERMAN, and Senator OBAMA, who came together and have led part of the effort to make sure we address comprehensive immigration reform this year.

I believe these bipartisan success stories establish the kind of civility we need to have in the Senate to be able to address the major issues that affect our

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

country. In reality, what the Judiciary Committee proposal does is it addresses the real problem we currently are facing in our country. We are facing a reality of broken borders and lawlessness at our borders as well as the interior with regard to immigration issues. What the Judiciary Committee bill does is it takes that reality of broken borders and lawlessness and creates a system that addresses our national security by strengthening our borders.

It also takes that system and reality of broken borders and lawlessness and says we can do a better job in securing our interior by enforcing our immigration laws. It also takes that system of broken borders and lawlessness and it creates a workable system of immigration that addresses both the economic and human realities of immigration in our Nation.

Finally, it takes that system of broken borders and lawlessness and tackles head on the horrible injustice that occurs with human trafficking that we see in our immigration problems of today.

As the Senate works to perfect and strengthen this legislation, it is my hope we will build upon the committee's work. I believe if we continue in a bipartisan manner, our final work product will be a comprehensive immigration reform law that protects our borders and addresses the human and economic realities within our homeland.

I believe comprehensive immigration reform legislation must be tough, must be fair, and must be practical. It must be tough, and it must be fair, and it must be practical. I believe the Judiciary Committee proposal is, in fact, tough, fair, and practical.

I know I am not alone in supporting this type of approach. Just last week, President Bush met with Americans from the business, faith, agriculture, and civil rights communities across our country. In the group in that meeting there were two people from Colorado who attended: Cindy Clark from The Broadmoor in Colorado Springs and Archbishop Charles Chaput, the archbishop of Denver. I commend both Ms. Clark and the archbishop for voicing the concerns of Coloradans with the President that we need to have a comprehensive immigration reform package. I have also spoken with President Bush and members of his Cabinet on a number of different occasions in the last year about the need for comprehensive immigration reform.

I share President Bush's belief, as he says—and I quote—

> Ours is a nation of law and ours is a nation of immigrants, we believe that we can have rational, important immigration policy that's based upon law and reflects our deep desire to be a compassionate and decent nation.

Immigration is, indeed, a vital component of our Nation's history. Our country has always been seen as a land of opportunity for immigrants who are willing to work hard for a chance at achieving the American dream for themselves and for their families.

Without the important contributions immigrants have made to our country, the United States would not exist as we know it today.

In my home State of Colorado, the first nonnatives to explore our lands were the Spanish. They arrived nearly 500 years ago and left their mark on the American Southwest and Colorado. Their presence is reflected today in the names of my State and its cities, its rivers, its mountains, and even in the food we eat.

More recently, immigrants came to Colorado to farm and ranch, to mine our State's abundant natural resources, to build the railroads and forge steel. They came, and continue to come, out of desperation, and also out of hope—the hope of America.

In a recent newspaper column, a former councilman, Bill Burnett, of the little Colorado town of Minturn—an old mining town—summed up the sentiments of many people in my State. He said:

> Without immigrants, we never would've built this place.

The sentiment is echoed by many across this great country of ours.

It can also be heard through the words of the great poem ''The Mew Colossus,'' inscribed at the foot of the Statue of Liberty. That poem says:

> Give me your tired, your poor,
> Your huddled masses yearning to breathe free,
> The wretched refuse of your teeming shore.
> Send these, the homeless, tempest-tost to me,
> I lift my lamp beside the golden door!

Our country has always been a beacon of hope.

My own family migrated to Colorado in the 1850s, almost 20 years before Colorado became a State. We came from northern New Mexico, from a city named Santa Fe, which we had helped found over 250 years earlier. That was before Plymouth Rock and James Town. We pioneered the settlement of Colorado's San Luis Valley, where we have farmed the same land for almost 150 years.

In truth, every one of us in Congress and, indeed, virtually every person in America has a story to tell of their immigrant roots. That is because we are a nation of immigrants, a historical fact that has made us the wonder, the hope, and the envy of the world for centuries.

But there is no question today that our immigration laws are not working. We have broken borders in America today, and we must fix the problem for the sake of the national security of America.

The level of illegal immigration on our borders is unacceptable and has to change. Our borders are undermanned and overwhelmed. We must do far better in getting control of our borders.

In the past decade alone, we have seen the number of undocumented immigrants in our country rise from 4 million to some 12 million in 2006.

Enforcement of our immigration laws has certainly not kept pace with the flow of both legal and illegal immigration, and the laws that deal with those who cross the border are enforced only rarely so that in reality many believe enforcement of the laws simply does not exist.

In this post 9/11 era, it is critical we get control of our borders—both the northern border with Canada as well as the southern border with Mexico—so we can protect our country from outside threats that would do harm to Americans and punish those who exploit the hopes of foreign workers who come here through human trafficking.

We must solve our Nation's illegal immigration problems as a matter of national security.

To that end, the first priority of immigration reform must be to provide for adequate and sensible border security and a renewed Federal commitment to enforcing our Nation's immigration laws. The Judiciary Committee bill contains many provisions that will strengthen enforcement both at the border and within our country. It contains more than 30 provisions that will ensure the security of our borders.

Among the numerous provisions it includes, it doubles the number of Border Patrol agents. It adds 12,000 new agents over the next 5 years. It doubles interior enforcement. It does so by adding 1,000 investigators per year over the next 5 years. It provides additional border fences at specific vulnerable sections across the border. It increases resources to expand the ability of Federal agents to retrieve aliens detained by local police. And there are numerous other enforcement provisions contained within the bill.

Some in our country would have preferred that we wall off our country along our southern border. To the proponents of building that wall, I ask them: What would Ronald Reagan have said about that wall? We should not repeat the example of the Berlin Wall, one of the most shameful symbols of antifreedom and oppression ever designed by man, designed solely to keep people from hope and opportunity and freedom. It was President Reagan who told the Soviet leader: Mr. Gorbachev, tear down this wall. We must not build those walls around our country.

Some also want to make criminals out of local parish priests who counsel their immigrant parishioners and soup-kitchen workers who provide a warm meal to the hungry. That, too, is wrong, to criminalize these people who take on humanitarian endeavors. I am pleased that the Judiciary Committee bill does not call for the construction of a massive wall along the border and does not criminalize the millions of Americans who come into contact with undocumented workers.

These security and enforcement efforts alone cannot be our sole means to confront this challenge. In the past,

Congress has focused almost exclusively on only this component of border security. We have tripled the number of Border Patrol agents who sometimes spend eight times as many hours patrolling the border. Yet during the same time, our borders have continued to be out of control.

The reality is, regardless of how much money we dedicate to border and interior enforcement, there are economic forces that spur immigration. Our country's current workforce is continuing to age, and our newer workers have become more educated and less interested in taking the important jobs our economy keeps creating. The Judiciary Committee bill addresses this issue.

Mr. KENNEDY. Mr. President, if the Senator will yield for a question, I know he has a limited period of time. Obviously, in describing his own background and that of his family—some 160 years in Colorado, 250 years in Santa Fe—he knows the issues. He brings a special dimension to the debate. What I am hearing from the Senator is that what is really necessary is a comprehensive approach, that the Senator is a strong believer that we have to do something about our borders to make sure they are going to be the best in terms of technology so we can have realistic laws, but that we also have to understand how we are going to include those undocumenteds here in the United States in a way which is going to be consistent with our traditions and will also be responsible.

Many have called that adjustment status amnesty. I reject that. I ask the Senator if he doesn't agree with me that amnesty means forgiveness. It means pardon. That is not what the underlying legislation is. The underlying legislation says you have to go to the back of the line. You have to wait until everyone who is in line gets the opportunity to come here. You have to work hard, play by the rules, pay your taxes, and pay a fine. Then you can earn your way to the possibility of citizenship, if that is what you desire. If you don't desire that, you don't have to. Does the Senator agree with me that is a reasonable way we ought to think about that, at least when we are trying to recognize that some 11 million undocumented people are here, who work hard and play by the rules? Eighty thousand of them are permanent residents who are serving in the Armed Forces in Iraq and Afghanistan. Should they not be able to earn the possibility of citizenship?

Mr. SALAZAR. I agree with my colleague and friend from Massachusetts. As a person who has worked with law enforcement for a good part of my life as attorney general of my State, I know what amnesty is. I believe those who characterize this bill as amnesty are absolutely wrong. In the proposal of the Judiciary Committee, we have said that you go to the back of the line. What we have said is that you pay a very substantial fine. That, in my view, with the other provisions in the bill, takes it completely out of the context of any kind of amnesty program we have ever seen.

I agree with my colleague from Massachusetts that at the end of the day, what we are dealing with is the reality of creating a stronger border but then addressing the reality within our Nation in a way that is workable. For those who would simply want to ignore the reality of the 11 to 12 million undocumented workers who are in the shadows of America today, we are simply not going to create a workable system of immigration reform in our country.

That is why I join my colleague from Massachusetts in pushing as hard as I can to get the Judiciary bill passed.

Mr. KENNEDY. I thank the Senator. He has explained the underlying bill accurately and correctly. The Senator understands that any of those individuals attempting to adjust their status over an 11-year period, if they get in trouble with the law, they are subject to deportation. They have to play by the rules, pay their taxes, work in the community, and be good citizens, learning English.

I am always impressed by the fact that under the Pew poll, it says that 98 percent of undocumented males are working today in the United States. These are workers making our economy stronger and providing for their families. If they in any way violate the law, they are subject to all of the legal interpretations and their opportunity for citizenship is eliminated. This is a tough provision, I believe.

Mr. SALAZAR. I agree with my colleague from Massachusetts. Amnesty is simply a red herring from those who don't want to get real immigration reform. When you talk about somebody having to wait in line for 11 years, having to go to the back of the line, having to remain crime free for 11 years, having to have a job in America, having to have an absolutely clean record, and then, at the end of the day, having to pay a substantial monetary fine, that is not amnesty.

We will be on this bill for a number of days. I expect to be speaking again about the importance of immigration reform as part of our national security. I wanted today, in this period of morning business and as we enter into the debate, to read from one of my favorite prayers from a person who understood the importance of immigration, especially in the context of agriculture. That is Cesar Chavez. He wrote this prayer, and it is something I think all of us in the Chamber should keep in mind as we move forward in the debate:

Show me the suffering of the most miserable so that I will know my people's plight. Free me to pray for others, for you are present in every person. Help me take responsibility for my own life so that I can be free at last. Grant me courage to serve others, for in service there is true life. Give me honesty and patience so that I can work with other workers.

Bring forth song and celebration so that the spirit will be alive among us. Let the disparate flourish and grow so that we will never tire of the struggle. Let us remember those who have died for justice, for they have given us life. Help us love even those who hate us so that we can change the world.

As we engage in this very important debate on comprehensive immigration reform, I ask my colleagues to keep in mind that this is one of the most important issues we confront together as a group of Americans in the 109th Congress.

I yield the floor.

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

Ms. LANDRIEU. I thank the Chair.

Mr. President, I associate myself with the remarks of the Senator from Colorado and the senior Senator from Massachusetts regarding the important issue before the Senate, which is trying to reconcile the rules and regulations regarding immigration. I commend both of them for their outstanding leadership on that issue.

(The remarks of Ms. LANDRIEU and Mr. KERRY pertaining to the introduction of S. 2482 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Georgia is recognized.

Mr. CHAMBLISS. Madam President, I did not hear the unanimous consent request of Senator KERRY. Was it to have 3 minutes on both sides?

The PRESIDING OFFICER. No. It was to add 3 minutes to his side.

Mr. CHAMBLISS. I ask unanimous consent that we add an additional 3 minutes to the majority's time also.

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

Mr. CHAMBLISS. Madam President. I rise to express my extreme disappointment with the actions taken by the Senate Judiciary Committee earlier this week on immigration reform. I know that this is a tough issue, an emotional issue, and that my colleagues on the Judiciary Committee worked very hard to pass something out of committee. However, it seems to me that the rush to pass some form of immigration reform eclipsed prudent policy-making.

The immigration problem in our country is out of control and must be solved. Our top priority in this immigration reform debate is to provide for real and comprehensive border security. We must also address in a responsible manner the presence of an enormous illegal population currently in our country.

The issue before us is critical to the future of our country, in terms of national security, economic prosperity, and the fabric of our Nation. I hope we will proceed with a thoughtful and thorough debate in the Senate because the proposals we are going to be asked

to consider are enormous in scope and have far-reaching implications. We must ensure that not only the Senators but also the American people have ample opportunity to fully comprehend the consequences of any action we take.

It is absolutely vital that the Senate act to put the resources and mechanisms in place to allow the Department of Homeland Security to gain operational control of our borders and to have stronger and more meaningful enforcement of our immigration laws in the interior of the United States.

Rarely a day goes by when our borders are not breached in a new way. By now, we've all heard the story of the teams of investigators from the Government Accountability Office who, in December 2005, were able to carry enough radioactive material to make two dirty bombs past border checkpoints in Texas and Washington State by faking Government documents We can address this problem, and we will, by providing improved training for agents and improved technology at the borders.

The magnitude of the flow of illegal immigrants into the United States is astounding. The Border Patrol arrested 1.2 million illegal immigrants in 2005, but couldn't stop hundreds of thousands more from unlawfully entering the country because they don't have the resources. We can address this problem and we will, by providing more Border Patrol agents, better infrastructure, additional checkpoints and use of the latest technology available.

In addition, we must address the real magnet for illegal immigration for so many: the promise of a job. Most illegal immigrants in the United States did not come to this country to cause us harm but rather came to earn a better life for themselves and their families. However, we must ensure that a legal process for hiring foreign workers is put in place and strictly adhered to. We can address this problem and we will by mandating employer sanctions for those who flaunt the rule of law and continue to hire illegal workers and by providing tamper-proof documentation to those who are authorized to work in the United States so that employers will have no confusion about the legality of the workers they hire.

In addition to border security, we will be addressing a guest worker program. However, I am hoping we can have the opportunity to refocus the Senate's attention on the ''guest'' part of the term guest worker program. It is vital in this debate to distinguish between true temporary guest worker programs and proposals that will lead a guest worker down a new path to citizenship. I don't think it's fair to call the legislation passed by the Judiciary Committee a guest worker bill. It is more appropriately named a citizen worker bill because it provides a clear new path to citizenship for aliens who are currently in the United States illegally.

I have a very simple question to ask all Members of the Senate as we debate this bill: Why is it necessary that we address the issue of U.S. citizenship when we are talking about immigration reform? There are reasons we need to deal with the people who are here illegally. There are reasons we need to deal with folks who want to come to this country for the right reasons. But why is it necessary in this legislation that we even consider the issue of U.S. citizenship?

I am particularly concerned about the agricultural guest worker program adopted by the Judiciary Committee because I believe it is contrary to the best interests of American agriculture. Not only that, but it will punish those farmers who have been abiding by the law in this country and utilizing the H–2A program, which has been a longstanding temporary guest worker program in the U.S. relative to agriculture.

Because my focus in this debate will center on border security and a temporary agricultural guest worker program, I would like to take a few minutes to outline some of the problems I see with the Judiciary Committee's agricultural guest worker program and indicate my intention to utilize the amendment process at the appropriate time to attempt to remedy what I regard as some shortcomings of the Judiciary Committee's agricultural reform.

Most troubling to me is that the agricultural reform provision provides amnesty to 1.5 million illegal workers in agriculture.

Some might call it earned adjustment of status or earned citizenship, but I call it amnesty because it provides a clear path to citizenship for illegal agricultural workers who meet a very low threshold. These illegal workers will not have to return to their home countries and will not have to wait their turn in line to gain legal permanent resident status in the United States.

The amnesty provision would allow illegal aliens who performed 863 hours, or 150 days, of agricultural work in the United States between January 1, 2003, and December 31, 2005, to qualify for a blue card.

In legislation Senator KYL and I introduced a year ago and had on the floor previously, we had a blue card provision. That is not the blue card I am talking about this morning. The blue card I am referring to is the one that was created by the Judiciary Committee mark.

The blue card program has a low threshold requirement to qualify. A workday is defined as ''any day in which the individual is employed 1 or more hours in agriculture.'' So someone who worked 1 hour per day for 150 days over the past 2 years would qualify for a blue card. The blue card under the Judiciary Committee bill would allow those illegal workers to then work legally in agriculture or any other area of our economy, provided they satisfy their agricultural employment requirements each year.

Once in possession of a blue card, an alien who is currently here illegally, would only have to work in agriculture for 100 workdays, or 575 hours per year, over a 5-year period to qualify for legal permanent resident status.

Alternatively, those blue card workers could work 150 workdays, or 863 hours per year, over a 3-year period to earn legal permanent resident status.

A workday is still defined as ''any day in which the individual is employed 1 or more hours in agriculture.'' So the requirement to obtain legal permanent resident status is either 100 hours per year over a 5-year period or 150 hours per year over a 3-year period.

While the number of blue cards allowed to be issued is capped at 1.5 million, once a blue card holder becomes a legal permanent resident, his or her family members receive derivative legal status and work authorization.

That means that whether a blue card worker has 1 child or 10 children, once he or she becomes a legal permanent resident, the rest of the family will have been deemed to have been here legally in the United States, and the spouse will be allowed to work regardless of whether they have had a job in the United States in the past.

This is hardly matching willing workers with willing employers but, rather, putting a large population on a level playing field with American workers for job opportunities.

While some of my colleagues might disagree with me on the amnesty issue, we should be able to agree on the fact that these agricultural workers who earn amnesty through this provision will not remain in agriculture forever.

Most everyone agrees that agriculture is the hardest low-skilled work around in our country today. It is truly backbreaking. Generally, those who have had an opportunity to earn a living in some other manner have chosen to do so. Even those who choose to stay in agricultural work find they cannot occupy these labor-intensive jobs over a long period of time. There is a natural tendency to age out of agricultural work.

Therefore, if this provision adopted by the Judiciary Committee is enacted into law, I anticipate those current illegal workers who become legal permanent residents will leave agriculture in the short term and leave our farmers to continue to rely only upon H–2A for their workforce, if they are going to hire legal workers.

The reason I believe these workers will leave agriculture is because that is what has happened in the past. I have spoken with numerous farmers who were farming during the special agricultural worker program Congress authorized in 1986. That is commonly called the Special Agricultural Worker Program. That program provided amnesty for those agricultural workers who performed 90 days of farm work in 1985 through 1986.

Chalmers Carr, a peach grower in the State of South Carolina, helped 200 workers adjust in 1986 pursuant to the special agricultural worker education program. After 2 years, 75 percent of those workers had left his farm, and after 5 years, the last adjusted worker left agriculture.

Similarly, Bill Brim, a Georgia fruit and vegetable grower, assisted 130 workers adjust status pursuant to the Special Agricultural Worker Program. Not one single one of the 130 workers stayed on his farm for more than 6 months after they adjusted their status.

Recognizing that these agricultural workers who are able to adjust their status will not be in agriculture forever, the Senate should be able to agree that we need a viable H–2A program to address the labor needs of agriculture in the future. Unfortunately, the agricultural provision of the Judiciary Committee's bill simply does not meet the needs of our Nation's agribusiness.

It is ironic to me that those who admittedly do not use the H–2A program in their States purport to know the modifications necessary for improvement of the program. In reality, the language contained in the Judiciary Committee's proposal provides every advantage to those agricultural employers who have been utilizing an illegal workforce and cripples those employers who have utilized the legal H–2A program.

For instance, the Judiciary Committee's agricultural proposal treats all those currently illegal aliens who qualify for a blue card as U.S. workers for purposes of recruiting workers. This means an agricultural employer who has been utilizing the H–2A program for years and following the rule of law already on the books will be forced to hire an illegal alien with a blue card before that farmer can petition to bring in the same people who had been working and returning in a legal manner for him in the H–2A program for years.

Further, in the case of an agricultural employer who properly applies for and brings H–2A workers to work on his farm, that employer will be forced to replace that H–2A worker for whom he has paid transportation costs to the worksite with a blue card worker who arrives at the worksite at any point during the first 50 percent of the work period seeking an agricultural job to fill his or her yearly hourly requirement to maintain their blue card status.

Once again, we are going to be giving folks who are here illegally preferential treatment over those folks who are here legally. There is no common sense whatsoever to that proposal.

That yearly requirement, in many cases, may not encompass the employer's entire season or period of desired employment, leaving the employer, again, without an adequate, reliable workforce. This disadvantages those who have been playing by the rules.

The framework of the Judiciary Committee's proposal which provides that only 575 hours of agricultural labor per year are required to transition from blue card status to that of a legal permanent resident will likely have a destabilizing effect on the agricultural workforce.

Madam President, 575 hours per year equates to a little less than 72 days per year based on an 8-hour workday. I don't know about farms in California or Idaho, but in Georgia, our farmworkers generally work around 11 or 12 hours per day during peak season. Using a 12-hour workday, a blue card worker will work just under 48 days to meet the yearly minimum hour requirement.

If these blue card workers are allowed to work in industries other than agriculture and are only required to work 575 agricultural hours to qualify for legal permanent resident status, my guess is they will not work in agriculture one hour more than necessary. This is not going to provide our agricultural employers with the stable workforce they are being promised.

I close with a comment relative to a very current issue that is very important as we debate this bill on the floor today, and that is the fact that our President today is in Cancun, Mexico, meeting with the leadership of our two best trading partners and our two border partners in the United States, that being the leadership of Mexico and the leadership of Canada.

As he meets with those leaders, I hope he will strongly emphasize, particularly to the leadership in Mexico, to change their position on border security. It is almost unfathomable to me that the leader of a country would say to his citizens that he is encouraging a border country to grant amnesty to anyone who has left his country to go into a border country. But that is exactly what is happening on the part of President Fox.

I hope President Bush emphasizes to the leadership over this week that they must be a partner with us in helping secure their border and our border which we have in common. If they will work with us, we can secure the border, and if this body acts in an appropriate way over the next several days, we can come up with an accommodation to those workers who are here for the right reason and, at the same time, we can ensure that those people who have crossed into our country illegally return to their home country, again, in the right way.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I want to say a few words about immigration. May I inquire first how much time is left on our side?

The PRESIDING OFFICER. There is 15 minutes remaining.

CONGRATULATIONS TO LYNDEN AND MEREDITH MELMED

Mr. CORNYN. Madam President, I wish to say a few words about immigration reform, but before I do, I want to recognize a blessed occasion of the birth of Caroline Brown Melmed 2 days ago on March 28, 2006, at 3:58 in the afternoon.

Caroline's proud father, Lynden Melmed, has been an integral part of my Judiciary Committee staff. He is on detail from the Department of Homeland Security, and he is an expert in immigration law. One can imagine how important he has been in my ability to be effective and advance the debate on this important topic.

He and his wife Meredith undoubtedly will be fantastic parents. As the father of two daughters myself, I would tell him it is the greatest blessing one could imagine. I wish them the best in the years to come.

IMMIGRATION REFORM

Mr. CORNYN. Madam President, I wish to talk about immigration reform and border security. In particular, since this debate will be continuing for this week and the next, I want to emphasize the importance of border security, and, obviously, enforcement begins at the border.

But before I talk about border security and enhanced enforcement, I want to address the issue of the 12 million immigrants who are already here who have come to this country in violation of our immigration laws.

We know why people come to America. It is the same reason they have always come: because too often they have no hope and no opportunity where they live. So we understand at a very human level why it is that people want to come to the United States. Yet I think we all acknowledge America cannot open its borders to anyone and everyone who wants to come here or we would literally be drowned in a wave of humanity.

We have to regain control of our broken immigration system, and that means to deal with enforcement at our borders, to deal with enforcement in the interior of our country, and to deal with verification of the eligibility of prospective employees to actually work legally in the United States. We cannot repeat the mistake this Nation made with the 1986 amnesty bill.

I remind my colleagues that in 1986, that legislation required illegal aliens to pay a fee, to learn English, to improve themselves by working in this country for a set time.

I also remind my colleagues that everyone agrees on two points when it comes to the 1986 experience with the amnesty bill.

No. 1, they agree it was amnesty. And No. 2, they agree it was a complete and total failure. I will continue to work with my colleagues on both sides of the aisle to find a solution to this great

crisis that confronts our country, but I won't accept a repetition of the mistake of 1986 when this country granted amnesty in the hopes of that being the end of it and in the hopes that there would be a reciprocal obligation on the part of the Federal Government to actually sanction employers who violate our immigration laws. I am afraid the numbers speak for themselves, with 3 million illegal immigrants who benefitted from the amnesty and now roughly 12 million who are here awaiting the next amnesty. Thus we can see what a magnet amnesty becomes and why it is so counterproductive.

I am proud to represent a border State, the great State of Texas, and I know from personal experience what problems the border States face. I know the strains that illegal immigration and our broken borders have placed on local taxpayers when it comes to education, when it comes to health care, and I know the anger and frustration that many people feel at the Federal Government's abject failure when it comes to enforcing our immigration laws.

I also know the nature of immigration across our borders is changing. There is more and more violence on the northern border of Mexico in cities such as Nuevo Laredo. I have listened to the concerns of my fellow Texans, including ranchers and those who are well accustomed to the movement of people across the border into the United States who want to work here and who then go back home with the savings and skills they have established. I have listened to the ranchers and the Good Samaritans who live and work along the border who were happy to lend a helping hand to the occasional traveling immigrant worker, to those seeking a better life. But I have to tell you, these people are now scared. They are terrified because drug smugglers and human traffickers are wreaking havoc along our Nation's borders.

Let's not delude ourselves. This debate isn't just about drugs, and it isn't just about violence, as horrible as those are. This debate is also—and I would say first and foremost—about our Nation's security. In a post-9/11 world, border security is national security. I say that again: In a post-9/11 world, border security is national security.

Make no mistake about it. Today we do confront a crisis that threatens our security. We all know that our immigration system is broken and has been for many years. And it is not getting any better on its own. So I applaud the majority leader and those who have worked so hard on both sides of the aisle to try to bring this debate to the Senate floor. This is the greatest deliberative body on the face of the planet, and I would hope that we could have a debate about this urgent need to fix our broken immigration system and to restore security to our border and do it in a way that is dignified and civil and worthy of this great institution and of this great democracy.

Senator JON KYL of Arizona and I have teamed up to work on this issue from top to bottom. We have worked closely together over several years to address this challenge in a comprehensive way. We have held numerous hearings, and we have heard testimony from a diverse array of experts across the political spectrum. We have also inspected our Nation's failed immigration system and its relationship with the terrible events of September 11. And we have examined why it is important for America's neighbors to raise living standards for their own citizens to help relieve some of the pressure on our border.

Senator KYL and I have sought to lay a foundation for a comprehensive solution to fix our broken borders, a comprehensive solution that would avert another crisis 5, 10, or 20 years down the road.

When we sat down to draft legislation, we were alarmed that many of the bills already introduced at that time simply called for more studies and more reports. One so-called comprehensive bill failed to contain a single provision on interior enforcement. This is not a time for more studies or more reports. This is a time for action. We need to act, and we need to act prudently and in America's best interests.

So our goal was to craft an immigration bill that would be comprehensive. We understood that any truly comprehensive bill must address both border security and enforcing the law in our Nation's interior. Over a dozen of the strong and sensible enforcement provisions we crafted made their way into the bill that is now before the Senate in the form of the Judiciary Committee bill. I want to talk about these enforcement measures and why they are a necessary precondition to everything else that we do when it comes to reforming our broken immigration system.

I repeat: National security and border security begin at the border. Congress can no longer ignore the realities on the ground. We can no longer afford to under-fund and under-man our borders. What we see in my State of Texas is that the mandates that the Federal Government issues when it comes to health care, when it comes to education, when it comes to law enforcement are foisted off on State, and most often, local taxpayers. It is considered a local problem when self-evidently, it should be a national mandate. When it comes to any of those issues, we have a national responsibility, and the Congress and the Federal Government must step up.

Let's look at the reason many Texans and others who live and work along the border are scared, people who are very much accustomed to immigrants moving back and forth across the border. It is because they know the face of illegal immigration across our border has changed. We have a chart, chart No. 1, that illustrates the changing nature of illegal immigration and the rise in the number of people coming from countries other than Mexico. You can see on this chart that the aliens who have been detained along the border are from special interest countries—countries with ties to international terror such as Syria, Iraq, Iran. Just 2 weeks ago, I talked to the Secretary of the Department of Homeland Security and he told me there were 39,000 Chinese who had been detained coming across our southern border and, unfortunately, once they were detained, China refused to accept any of them back.

So we have to use every diplomatic tool in our toolbox to make sure we not only detain people who come across our border illegally, but that we then, in an expeditious way, return them back to their country of origin.

Second, in the bill that Senator KYL and I proposed, we proposed a doubling in the number of Border Patrol agents. And while we have heard a lot of talk about additional Federal agents at the border, the Federal Government really hasn't stepped up yet. There is a lot of good and, I think, well-intentioned talk. But on 9/11, we saw that 9,788 Border Patrol agents were funded by the U.S. Government. Here we are today, and we have seen a small increase to a little over 11,000. But lest some people think that is a lot of Federal agents on the border, let me remind them we have a 2,000-mile border between the United States and Mexico—a 2,000-mile border—and now a little over 11,000 Federal agents, when the city of New York has somewhere on the order of 39,000 policemen. So if you compare a 2,000-mile border and 11,000 Border Patrol agents with the fact that the city of New York has 39,000 police officers, you can see why I suggest to my colleagues that we are both underfunded and undermanned when it comes to the sheer volume of people coming across the border.

Last year, about 1.2 million—that's 1.2 million—people were apprehended coming across the border. So how can we in good conscience say that we are doing everything within our power to enforce our borders and enforce our laws when we simply deny the Federal agents, who are doing a very good job, the number of people they need in order to be successful?

Then there is the issue of detention beds. Once you detain someone coming illegally across the border, they are entitled, ordinarily, to a deportation hearing, if they come from a country other than Mexico. People who come from Mexico are returned expeditiously—usually the same day. Of course, many of them try to come back and, after enough tries, they usually make it past the border. But we have had a flawed policy of catch and release. In other words, when we have apprehended people at the border who come in illegally from countries other than Mexico, we said: Please show up

in 30 days for your deportation hearing. Are we surprised that the vast majority of people don't show up but just merely melt into our landscape and become part of that 12 million people who come to our country in violation of our immigration laws? Well, it is because we only have 20,000 detention beds—20,000—with 1.2 million people coming across our borders just last year. That is the fundamental, root problem with the catch-and-release policy that the Department of Homeland Security has had for far too long.

Senator KYL and I would not only raise the number of detention beds to 50,000, but we would end the catch-and-release policy by improving and increasing and mandating the use of expedited removal across our borders.

This chart reflects that Border Patrol apprehensions of people from countries other than Mexico were 165,000 last year. Yet 114,000 of them were released under the catch-and-release program. As I say, most, if not all, of them melted into the landscape and became part of this shadow culture living in America today of people who have come to this country in violation of our immigration laws. We may assume we know why they have come here. We may assume that they are people in search of a better life and, indeed, many of them are. But the fact is, we can't assume in a post-9/11 world; we have to know who is coming into our country and why they are here because we know there are those who have evil intent toward America. We know there are common criminals. We know there are drug dealers and drug smugglers. We know there are arms dealers. We know there are international criminal syndicates who will do anything for a buck, whether it is smuggling drugs, guns, weapons of mass destruction, or smuggling terrorists across our borders.

In addition to the 10,000 more Border Patrol agents, I believe the solution to securing our borders is in the technology we have, our technological advantage. But we are not using technology along the border the way we should. We know the Department of Defense, our military, is the finest, most professional military the world has ever known, and in large part it is because of the technology they are able to use. We need to use ground sensors. We need to use unmanned aerial vehicles. We need to use technology to provide a secure border.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CORNYN. Madam President, I ask unanimous consent for 30 seconds to conclude my remarks.

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

Mr. CORNYN. Madam President, as I pointed out, border security is national security. I see the chairman of the Subcommittee for Homeland Security of the Appropriations Committee on the floor, and he has been a great champion of getting more money allocated for this important effort. But we are a far cry from where we need to be. We can do this if we have the national will and commitment. But our national security depends on border security, and we have to make a credible effort—indeed, more than an effort—we need to be successful in providing security to our borders in order to keep the American people safe.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SECURING AMERICA'S BORDERS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2454, which the clerk will report.

The assistant legislative clerk read as follows:

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

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I understand that the Senator from Georgia and the Senator from Louisiana wish to speak. I also wish to speak, and I see the Democratic floor leader is here. I spoke with the Senator from Massachusetts, and he said he wasn't speaking at this time. I was wondering if we could maybe get a time agreement so that we can get an order, if that is all right with the Democratic floor manager.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, what is the parliamentary situation now? I am just asking the question.

The PRESIDING OFFICER. Under the previous order, the time until 12 p.m. will be equally divided between the two leaders or their designees.

Mr. GREGG. Madam President, I would just suggest that since the Senator from Georgia is here and the Senator from Louisiana is here and I am here and I know the Senator from Vermont is here, since he is the floor leader, he would probably want to proceed. Do you have a statement you are proceeding with, I presume?

Mr. LEAHY. Madam President, I would tell my good friend from my neighboring State of New Hampshire, I do have a statement. It is not very long; it is probably 7 or 8 minutes. But I would like to say, just to frame the issue, the distinguished chairman of the committee, Senator SPECTER, and I spoke on the floor yesterday on this. This is a major issue. I will want to speak. I do not intend to hold the floor very long.

Mr. KENNEDY. Will the Senator be good enough to yield? I will be glad to wait for 45 minutes or an hour. I will seek recognition at that time. After the Senator from Vermont speaks, we have some other speakers, but I think we can wait.

Mr. GREGG. I ask unanimous consent that the Senator from Vermont be recognized for as much time as he may desire and then the Senator from Georgia be recognized for 15 minutes, the Senator from Louisiana for 15 minutes, and then I be recognized for 15 minutes, and that will get us to approximately the 45 minutes the Senator was talking about.

Mr. KENNEDY. Then would the Senator from Illinois be recognized for 15 minutes and I will follow the Senator from Illinois?

Mr. GREGG. That sounds reasonable to me.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GREGG. I yield the floor. I thank the Senator from Vermont and the Senator from Massachusetts.

Mr. LEAHY. Madam President, I thank the Senator from New Hampshire. As usual, he found us a roadmap and it worked well.

Madam President, let me just briefly suggest the absence of a quorum. I am going to take us out of the quorum in about 1 minute.

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. LEAHY. 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. LEAHY. Madam President, we are going to have a major debate on immigration. That is a good thing, both for the country and for the Senate. I note, however, in the Judiciary Committee, we have had a major amount of debate and long markups. The distinguished chairman of the committee, Senator SPECTER, and I have tried to make sure we had full hearings.

The distinguished senior Senator from Massachusetts, Mr. KENNEDY, is on the floor. As I said last night, he has spent more time on this than any of the rest of us. He has been in the Senate longer. He has been a leader in the area of immigration.

When we began the debate, Chairman SPECTER and I followed the opening statement of the Republican leader with a discussion of how the Judiciary Committee, in a truly bipartisan manner, worked successfully to meet the deadline set by the Senate's Republican leadership. I understood that the majority leader had committed to turn to the committee bill if we were able to meet that deadline. I heard our chairman reiterate that same thing on the floor again yesterday. We did it, we completed that difficult task. We did it by working together, Republicans and Democrats, something that should be done more often around here.

Under the steady leadership of the chairman and Senator KENNEDY, and with the hard work and dedication of so many members of the committee, we worked through the long hours and numerous amendments and accomplished what had seemed to be the impossible. Our staffs worked throughout the St. Patrick's Day recess. As I said last night, I got e-mails from them at 11 o'clock and 12 o'clock at night and then again very early in the morning. I knew how hard they were working on this—the staffs of all the Senators involved. Then the Judiciary Committee sent a resounding message approving a bill by a bipartisan vote of 12 to 6.

What was interesting about that is none of the amendments on the critical issues passed on a party-line vote. They were by strong bipartisan votes. Let me tell you what our committee did.

We have a bill that is strong on enforcement. In some ways, it is stronger than the bill passed by the House. It is tough on employer enforcement. It is tough on traffickers—and it should be. It is stronger than the bill introduced by the senior Senator from Tennessee, who started from the same place as the committee bill but did not include some of the enforcement measures added by amendment during committee consideration nor any of the other improvements we made. For example, neither of those other bills included a provision, added by the committee at the urging of Senator FEINSTEIN, to make tunneling under our borders a Federal crime. The committee bill adds new criminal penalties for evading immigration officers, and it added manslaughter to the definition of aggravated felony.

Finally, on Monday morning of this week, the committee adopted a Feinstein amendment to add 12,000 new Border Patrol agents—2,400 each year for the next 5 years.

Our committee bill is enforcement-plus. It starts with strong enforcement provisions and border security, but it is also comprehensive in its balance. It confronts the problem of 12 million undocumented immigrants who live in the shadows. It values work. It respects human dignity and includes guest worker provisions supported by both business and labor. It includes a way to pay fines and earn citizenship that has the support of religious organizations and leading Hispanic organizations.

Yesterday, Senator KENNEDY and Senator DURBIN and Senator HARKIN made excellent, persuasive statements in favor of the committee bill. Senators DOMENICI and MARTINEZ also spoke of their personal journeys. These were very real and meaningful statements. They reminded us all that we are a country of immigrants. I thank them for speaking in terms favorable to the comprehensive approach we have adopted. Listening to them makes me think how proud my immigrant grandparents would be. They immigrated from Italy to Vermont. They would be proud to hear this debate, and to see their grandson speaking on the floor of the Senate.

I look forward to working with Chairman SPECTER in a bipartisan way to pass the committee bill. The chairman and I have been able to move our committee from being a confrontational committee to one that works in a bipartisan fashion. I commend him for that. I commend all members of the committee for that.

What we have done is, by working that way, we have provided a realistic and reasonable system for immigration. The bill protects America's borders, it strengthens enforcement, and most important, it remains true to the best of American values.

The committee bill wisely dropped controversial provisions which would have exposed those who provide humanitarian relief or medical care or shelter or counseling or other basic services to undocumented aliens. Under the earlier bill, they would have faced possible prosecution under felony alien-smuggling provisions of the criminal law—a reminder that in a nation such as ours, with such a great heart and soul as a nation, we also have a moral and humanitarian responsibility to people. We should not make felons of those who carry out the responsibility of feeding the hungry, clothing the naked, and sheltering those who need shelter.

I thank so many in the relief and religious communities, the faith community, for speaking out on this matter. Even in my own faith, I was so pleased to see some of the leaders speak out so strongly.

The criminal provisions should be focused on the smugglers, not on the children of aliens or those who help them. Focus it on the smugglers, those who traffic in human misery and sometimes bring about the death of those they smuggle. Under the committee bill, that is what we did.

The committee also voted down a measure that would criminalize mere presence in an undocumented status in the United States. I was a prosecutor. I know how unworkable that would have been. Illegal status is currently a civil offense with very serious consequences. One of the most serious, of course, is it includes deportation. But if you then criminalize that status, it is punitive, it is wrong, it is totally unworkable and goes against the history of our Nation. It would have led to further harsh consequences. It would have trapped people in permanent underclass status. It would have put bars in front of the American dream.

These criminalization measures, which were included in the House-passed bill supported by congressional Republicans and which were reflected in the majority leader's bill, have understandably sparked nationwide protest. In the view of many, it is anti-immigrant and inconsistent with America's values and history. The committee bill, while tough in enforcement and on the smugglers, is smarter and fairer.

I ask Senators to look at the peaceful demonstrations across this country. Listen to the people who are speaking out. A half-million people went out in a peaceful demonstration in Los Angeles. That is nearly the population of my State. That was just one demonstration among many.

Opponents of a fair, comprehensive approach are quick to claim that anything but the most punitive provision is amnesty. They are wrong. This is not an amnesty bill. An editorial in yesterday's New York Times entitled ''It Isn't Amnesty'' makes the point that painting the word ''deer'' on a cow and taking it into the woods does not make the cow a deer. As I said yesterday, in Vermont, especially during deer season, we Vermonters know the difference between a deer and a cow. Sometimes we wish the tourists did.

Our committee bill should not be falsely labeled. Our bill is more properly called what it is: a smart, tough bill.

We know we need a comprehensive solution to a national problem. We need a fair, realistic, and reasonable system that includes both tough enforcement and immigration reform provisions. All Senators, Republicans and Democrats, should be able to agree with these principles. The bill reported by the Judiciary Committee is that bill.

I am glad to hear that President Bush is again speaking about the need for a path to citizenship and the need for a comprehensive bill. I hope, as we now proceed through the sixth year in office, that the Bush-Cheney administration will finally send a legislative proposal to Congress on these matters. They have stated their support. Let them also bring forward what they believe is appropriate legislation. We did not want to wait any longer in our committee. We did the hard work, and produced a bipartisan bill.

We did the hard work, and we wrote a tough, smart, comprehensive bill. The Judiciary Committee's debate has produced a bill that I believe would make my immigrant grandparents proud, and my maternal great-grandparents proud. It is worthy of our support.

This is a body which should reflect the conscience of our great Nation. There are only 100 of us. We are enormously privileged to represent 295 million Americans. Let us speak to the conscience of all of us and the humanity of all of us. Let us pass this bill. It is not just from the managers' point of view, from a political point of view; it has the support of the labor unions, business groups, leading Hispanic organizations, and many from our religious communities. They are asking the Senate to do its part. Let's adopt the committee bill so we can bring hard-working people out of the shadows and end the permanent underclass status of so many who have contributed so much.

Let us protect our security and our borders, but support the American dream that attracted my grandparents and the American dream that attracted so many, and allow this bill to become a reality. We are a good, brave, and wonderful country. Let us demonstrate it.

I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Georgia.

Mr. ISAKSON. Mr. President, in 1903, Andrew Bengsten boarded a ship and left Sweden, the son of Isak Bengsten. He landed on Ellis Island and took the last name Isakson, which is the Scandinavian tradition, to take the father's first name and add ''son'' to it. In 1916, he had a son named Ed, and in 1926 he became a naturalized citizen.

He went to West Texas as a laborer, and later on to Atlanta, GA as a carpenter. In 1944, his son Ed and Ed's wife Julia had a son, who by the grace of God is me. No one in this body has any greater respect or admiration for this great country and our process of legal immigration than I.

As we approach the most important debate this Senate will encounter in this session, it is important that it be a debate of dignity and a debate of substance and a debate where we learned the lessons of the past and make sure that immigration in the future holds the same promise it held for my grandfather 103 years ago.

I have filed an amendment at the clerk's desk, which at the appropriate time in the debate I will offer, which to me is the key as to whether we proceed on whatever the final product this Senate may adopt may be. It is a point that has been missed by many and avoided by some but we must focus on and we must accomplish. It is an amendment that very simply says no provision of any act we pass which contains a guest worker program will go into effect until, first, the Secretary of Homeland Security has certified to the President and to this Congress that our borders are reasonably secure.

I want to tell you why that is important. It is important because 20 years ago, in 1986, a great President, Ronald Reagan, and this Congress adopted a program that gave legal status to 3 million illegal aliens in the United States. We did so in the hopes of clearing up the problem. Instead, what we created was an attractive reason for more to come illegally in hopes of gaining the same status. Today, 20 years later, we have estimates of 11 million to 13 million Americans who came exactly that way—over the border illegally in hopes of that same promise that happened in 1986.

Were we to pass in this body this year a bill granting status that does not require, first, security on the border, then we will create the same attractiveness we did 20 years ago. The result will be the same, and the legacy to another Congress and the problems in our social services system in our great country will be great. It is important that whatever security requirements we place in this legislation—and there should be many—be funded and be in place before any other provision takes place.

Second, it is important to understand that enforcing the border is something we can do. Before I introduced border security legislation a few weeks ago, I traveled to the United States border with Mexico. I went to San Diego and Tijuana, met with our border agents who are having remarkable success now because of technology and, of course, because of improved numbers.

I went to Fort Huachuca in Arizona where the one and only unmanned aerial surveillance vehicle, the Predator, has a 150-mile stretch of the United States-Mexican border secure because we have eyes in the sky 24 hours a day, 7 days a week.

For $400 million, we can deploy a fleet of 26 of those unmanned Predator aircraft to have eyes in the sky 24/7 along the entire 2,000-mile border. That will have a tripling effect on our manpower because it allows us through technology to identify those who are coming and where they are, to position the agents we have to intercept them and turn them around. It will send the signal that no longer are we going to look the other way but instead we are going to focus on those who are trying to come here illegally and be smuggled, and shut the door so they will apply legally to come to this country the right way, as so many American guests have and some citizens have, to ultimately become naturalized.

This place we all call home and the rest of the world calls America is a very special place. Our problem isn't that people are trying to break out of this great country; they are all trying to break into this great country. We owe it to our country and our future and to the legacy of our children to assure that the path to this country is legal and operable, and that it isn't done illegally and involve smuggling.

While often many of us talk about the Southwest border, it should also be true on the border with Canada as well, and it should be true at our ports.

Whatever we do in this 2 weeks of debate, it must ultimately be predicated on, first, securing the border of the United States, whether it be on the north or on the South. We must have fortitude in this Senate to pass the appropriations necessary to fund the programs to secure those borders. Rhetoric is cheap. Enforcement on our borders can be expensive. But it must be essential.

The distinguished Senator from New Hampshire, who is on the floor, has been an absolute leader to the appropriations and the budget process in focusing like a laser beam on seeing to it that we authorize and ultimately appropriate the funds to do exactly that in terms of manpower. I will join him in that as well as those who put the funds up for the unmanned aerial vehicle surveillance and the ground sensors for tunneling and other technology we have.

It is a matter of us developing a resolve to secure the borders of the United States of America. We must not demonize anybody. First, we must secure the borders which the American people expect us to secure.

I come from a great State, the State of Georgia, a State that is a major agricultural producer in this country, a State where there are many migrant laborers. I am well aware of what the green industry, the agricultural industry and the construction industry workforce, is made up of. We owe it to those industries to see to it that we have a legal path to come to this country and to work and appreciate America, that no longer will there be smuggling of illegal aliens across our border, but instead we have as a country a legal path for people to come and an illegal door that is shut because we have stopped turning and looking the other way.

I look forward to this debate. I appreciate the promise of this country, because were it not for our legal immigration process I would not be here today. But I will fight as hard as I can to see to it that whatever passes this Senate requires first and foremost the securing of our borders before the extension to guest workers or any status be granted. If we do not, we will have recreated the problem we created in 1967. We will deal not with just 3 million illegals coming but millions and millions and millions more, all because we looked the other way at a time when we needed to focus like a laser beam.

The people of this country are looking to us to secure our borders for the homeland and for immigration. We must secure them first before we do anything else.

A comprehensive bill is possible, and I have no problem with addressing comprehensive reform. But those reforms that involve guest workers must only be implemented after the certification by the Secretary of Homeland Security that our borders are secure. For failure to do so is to pass on to another generation of Americans a compounded problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. VITTER. Mr. President, I too rise to strongly support the general thrust of the President's border security bill. As the essential first step in this great challenge, we must take strong, meaningful action—not just talk but action to prove that we can and will secure our borders and return to the rule of law with regard to our immigration system.

I too rise as a descendent of immigrants to this country, and I am very proud of that. Both sets of my grandparents—on my mom's side and on my dad's side—came from France. They came first into New York but very soon thereafter to Louisiana where there are

many other French immigrants, and they settled.

What is so unique about this debate is that here in the Senate, every Senator rises and begins with a similar sort of story. We are all the descendants of immigrants. That is what makes America so magical and so unique. For a young country, we are an immigrant country, and we celebrate that. But we also want to preserve that.

To me, that comes down to two fundamental traditions in this country—the two fundamental reasons I am supporting the Frist border security bill—and that focus as a first step in this great debate is one tradition, the tradition of immigration, but it is a proud, strong tradition of legal immigration throughout the history of our country, at least until recently.

The other great tradition which I will base my vote on is the very important tradition—in fact, one of the leading reasons so many people, including my grandparents, came to this country—of the rule of law which forms the basis of so much of what we do.

Let me talk briefly about those two traditions.

First, the rule of law: It is at the heart of our entire system. It is at the heart of what is attractive to millions upon millions of people from every country around the world to become Americans, including my family. Law is at the center of our democratic traditions. Without proper law enforcement, written laws mean nothing. Failure to enforce certain laws, including our immigration laws, gives people the impression that the Federal Government will fail to enforce other laws. That tradition of the rule of law and enforcement is an essential component to comprehensive immigration reform.

A recent poll conducted by the Washington Post and ABC News found that the huge majority of Americans agrees with what I am saying. Four in five Americans think the Government is not doing enough to prevent illegal immigration, with three in five saying they strongly hold that view.

The same poll found that 56 percent of Americans believe illegal immigrants have done more to hurt the country than to help it, while only 37 percent believe illegal immigrants help the country. But the key is the illegal nature of that activity—not our proud tradition of legal immigration.

Of course, this issue of the rule of law and the explosion of illegal immigration also has a very important national security component, particularly since September 11. Adequate border security and enforcement of our immigration laws was an issue on September 11. It goes directly to the terrorist attacks. It goes directly to our war on terror.

In its report, the 9/11 Commission itself found weaknesses in immigration enforcement could have facilitated those terrorist acts. The Commission stated:

> . . . our investigation showed that two systematic weaknesses came together in our border system's inability to contribute to an effective defense against the September 11 attacks: A lack of well-developed counterterrorism measures as part of border security, and an immigration system not able to deliver on its basic commitments, much less support counterterrorism.

Other studies have shown that 15 of the 19 September 11 hijackers, including Mohammed Atta, should have been denied visas. At least three of them overstayed their visas. Clearly, lax enforcement was an important part, sadly, of that tragedy.

There are also other issues within the country related to illegal immigration—not our proud tradition of legal immigration but illegal immigration.

First, it is very important to say we are talking about millions upon millions of people, 11 to 13 million by most estimates, even more by some. It is important to say the great majority of those people are not dangerous criminals. However, some percentage of those folks do contribute enormously to our criminal issues in this country. A GAO report issued in April of 2005 says the number of criminal aliens incarcerated in the United States increased by 15 percent from 2001 to 2004. Those aliens constitute about 27 percent of all Federal prisoners. That is a cost to the Federal Government of about $1.2 billion a year. That specific year was 2004. It is an enormous cost to our country. Again, a small percentage of those balloon the costs to society.

Violent gangs, composed mostly of criminal aliens such as the El Salvadoran-based MS–13, have been a very important and dangerous part of the criminal problem and violent crime in this country. Last March, ICE agents deported 37 criminal aliens rounded up in the Washington, DC area, two of whom had ties to MS–13. MS–13 has spread across the country. Over 2,000 members are in northern Virginia alone.

For all of these reasons, real enforcement must come first in our meeting this challenge. It must come first because we need to get control of our borders. We need to get control of the serious repercussions this illegal problem has in our country, including on the criminal side. To do this, we must prove to the American people we are not just going to talk about it as window dressing to what is tantamount to an amnesty program. We are going to do it. We are going to put the resources behind it. We are going to deploy those unmanned aerial vehicles. We are going to do what is next in terms of manpower enforcement and other resources at the border.

I am a fairly typical American when it comes to this issue. I have heard this enforcement talk in Washington for the last couple of years. I don't believe most of it. Quite frankly, we have never been true to it. We have never been serious about it. We have never turned the corner on this issue before.

I believe it is our solemn duty and responsibility in terms of addressing this issue in a comprehensive way to first not only pass border security and significant enforcement measures, but to put them in practice, to fund them, to get agents on the border, to do whatever it takes to turn the corner on this issue and prove to the American people, prove to me and so many millions of others, we are serious about enforcement.

There is another reason I believe we must start with enforcement, as the Frist measure does. It is because any measure that is tantamount to amnesty sends exactly the wrong message as we try to get our hands around this problem. We are a nation that believes in upholding the rule of law. We must reestablish respect for our laws, including border security and interior security. But provisions which are tantamount to amnesty send exactly the opposite message. It sends the message that you can break the law and over time you will basically be rewarded for doing so.

These are not just theoretical or commonsense arguments. These are arguments that are borne out by history, as Senator ISAKSON, the previous speaker, pointed out.

The last amnesty type of program enacted by this Congress was in 1986. There have been many studies about the effects of that since then. Across the board they show that act of basically granting amnesty to a class of illegal aliens in this country dramatically worsened the problem. It did nothing to solve the problem. In 1992, for instance, 6 years after the last illegal alien agricultural worker amnesty passed in 1986, the Commission on Agricultural Workers issued a report to Congress that studied the effects of that 1986 agriculture worker amnesty. They made a number of findings and recommendations. First, the Commission found that the number of workers amnestied under the bill had been severely underestimated. I fear many of the estimates we are talking about here today are underestimated.

Second, the Commission found the agriculture worker amnesty only exacerbated existing problems.

> Six years after AIRC was signed into law the problems within the system of agricultural labor continue to exist . . . In most areas, an increasing number of newly arriving, unauthorized workers compete for available jobs, reducing the number of work hours available to all harvest workers and contributing to lower annual earnings . . .

Third, the Commission stated that a guest worker amnesty program should not be the basis for future immigration policy. The Commission went on to say the only way to have a structured and stable market was to increase enforcement of our immigration laws, certainly including strong employer sanctions.

So we have experience to guide us. We have concrete history to learn by. Why do we believe doing the same thing as we did in 1986, only on a much greater scale, is going to yield different results?

The Frist bill is not perfect, but it is a good and an appropriate start. And start we must on the enforcement side of the equation to prove we can get real, get tough, get serious about enforcement as never before. Because, quite frankly, we have never, ever, in the history of this modern problem proven that we will be serious, that we will have the political will, that we will devote the manpower and other resources necessary to turn the corner on this issue.

I urge all of my colleagues to start here where there is consensus, where we can come together around commonsense, meaningful, and appropriate enforcement actions as the important first step in addressing this very important challenge.

The Senate is having a very important and responsible debate on this issue. It is crucial in this debate that we be respectful of each other and of everyone involved in this issue and not demonize any part of society. That applies equally to those who believe we must start with enforcement as it does to people illegally in this country.

No one in this Senate, I believe, is anti-immigration. Everyone is a product of a strong and proud history of immigration in this country. But until recently it was a strong and proud history of legal immigration. I truly believe what most threatens that strong and proud history and the support in this country for that foundation of our society is the fact that illegal immigration has subsumed that tradition.

If we want to continue to cherish that tradition, if we want to continue to have respect for all members of our society, no matter how they look or appear, we must get back to that important tradition of legal immigration. We must get back to the rule of law so we can defend that strong tradition and get hold of this very serious challenge our country faces.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, obviously the issue before the Senate is a critical issue—how we maintain the atmosphere of this Nation, which is basically the essence of our definition of a culture, which is that we are a society which invites people from around the world to participate in our society. It was the reason we went with the motto, E pluribus unum: from many, one. How we maintain that atmosphere, that way of life which has given us so much energy as a nation, that has given so many people the opportunity to pursue the American dream, is what this debate is all about.

Whatever we do, we do not want to, in my opinion, chill that great tradition which is the engine for our strength as a nation. People come here seeking a better life, and as a result they energize society to be even more productive, successful, and stronger.

We are, as has been mentioned by most of the speakers today, most all of us immigrants. Certainly everyone in the Senate since the departure of the great Senator Ben Nighthorse Campbell falls into that category.

The issue, in my opinion, breaks into two obvious parts. The first is how you secure the border. The second is how you deal with the fact there is a large number of people in this country who are here illegally today and that there is a large number of people who wish to come to this country for the purposes of earning a living, and that they will come into this country however they can—and if it is illegal, they will come here illegally—and how we would change that atmosphere.

On the first issue, which has been discussed and which is the purpose of the bill before the Senate, the bill filed by the Senate majority leader, this is very resolvable. We can secure our borders. That has been said by everyone. And we should. We must. We cannot as a culture survive if we do not have borders which are secure, if we do not know who is coming into the country, if we do not know who is coming here. If we have large numbers of people who are coming into this Nation illegally, it undermines us as a nation of laws.

There is no question but this can be resolved. It does not take a lot of new law to do that, to be very honest. We can pretty well control who is coming into this country. I want to get into the specifics of how we do that because I have the good fortune to chair the subcommittee which has jurisdiction over the borders in the appropriations area. I will talk about what we need there. Before I do that, I also want to address this issue of amnesty and guest worker and how we deal with the folks who are here and who are here illegally.

Let's assume for the moment we are able to secure the southern border, which I think we can. It might take 2 or 3 years, but I am absolutely sure we can do that, so that the vast majority of the people coming across our southern borders will come across in some manner which is legal, for a purpose which is not to harm us. That is a little more difficult to do on the northern border. We do not have the human wave coming across the northern border. The northern border is probably more of a terrorist threat to us, actually, in many ways, but it does not have the human wave issue that we see on the southern border.

The question becomes, how do you deal with the folks who are already here illegally? There is this term, we cannot give them amnesty; amnesty is wrong. Well, as a practical matter, they already have amnesty. Our system is not able to deal with these individuals unless they become criminals, unless they commit an act which violates our law in an open way, commit a felony, do something that is clearly a transgression to our society. But if they are here working, as most of them are, trying to support themselves or their families or their families back home, for all intents and purposes they already have amnesty because we are not doing anything about it and we do not have the capacity to do anything about it. That is a straw dog, to be very honest, this argument of amnesty.

The bigger question, more fundamental question, is how do you set up a system which allows these people to come out from behind the bushes where they have to hide, so they are not taken advantage of, so they can be even more productive in their role here in the United States, and do it in a way that does not basically affront our sensibilities as a nation of laws, and especially address the issue of citizenship.

There are a lot of ways to do that. There are a lot of ideas being put forward to do that. I happen to think the essence of the question is how you deal with the issue of citizenship. If you are here illegally, getting citizenship should be probably not attainable, but certainly there should be a way to allow you to still participate in our society so you do not have to hide.

That assumes, however, you have effectively set up a border enforcement mechanism which works because, as the point was made by the Senator from Louisiana, you cannot move to any sort of effort to try to redress or address the issue of people who are here illegally unless you have more control of the borders because you simply will create an incentive for more people to come in illegally.

But let's remember that if we were able to solve the problem of the people who are here illegally and who are working and who seek nothing more than to be working, if we were able to give them some sort of status that would allow them to participate as workers in this country in a public way, so they were able to participate in systems such as paying into the health care system, paying into retirement systems, I think we might actually be moving toward a more constructive result than what we have today, which is essentially a large number of people who we know are here and we just turn our eyes to the fact they are here illegally. They are going to continue to stay here and work here. We certainly are not going to remove them because we have no way to remove 10, 11 million people, however many people there are, except for those people who commit criminal acts.

So I think the debate is misfocused in some ways when the word ''amnesty'' becomes the hot button nomenclature versus the more substantive question: What you do with people who are already here and basically have the capacity to be here, and they already have amnesty, for all intents and purposes, because we are not going to do anything about them so long as they act legally in the context of their jobs because we do not have the capacity to remove 11 million people, and our society would not be able to absorb it.

But getting into the issue I wish to talk about today, which is the specifics

of the Border Patrol question and how you upgrade the Border Patrol, the bill before us authorizes an additional 1,400 Border Patrol agents over the next few years and authorizes more beds for detention. It authorizes more technology for the purposes of guarding the border. That is all well and good. I strongly support those authorization efforts.

But the bottom line is, the rubber does not meet the road with the authorization bill. The rubber meets the road with when we spend the money, which is with the appropriations bill. The problem we have, very simply, is we are not committing resources in this area to the level we need to accomplish what is already on the books in the way of obtaining security along the border.

Security along the border basically breaks down to three basic components: First, how many agents, how many feet on the ground do you have down there? Second, how many beds do you have, so when you find people who are coming across illegally, you can actually control where they are going, so you are not basically catching and releasing but you can actually hold these people and send them back? And third, what technologies are necessary in order to, first, monitor the border, and secondly, evaluate people who are coming into our country as to whether they are coming here to participate in our society in a positive way or whether they are coming here to do us harm?

In all four of those categories—three categories with a couple subcategories—we simply have not been able to put the resources in that are necessary to get where we want to go. This does not mean we have not tried. In fact, in the last 2 years, we have increased the number of Border Patrol agents by 1,500. That is almost 1,300 more than the administration asked for. We added over 2,000 beds to detention. We have significantly increased the funding for the surveillance and technology area, especially in the area of US–VISIT, which is the program which is essentially going to try to, through technology, be able to evaluate people as they come into the country legally and know whether they are people whom we want to have visit us or whether they are people who may be here to do us harm.

But that has not generated the results we need. I wish to go through a few statistics which are, unfortunately, rather stark but should be talked about because you are not going to get resolution around here unless you talk about them.

The first is the issue of border agents. We have been increasing the number of our border agents rather significantly over the last couple years, as I just mentioned, but we also know we need to increase them even further in order to hit what is the goal. With 20,000 agents on the border, we can accomplish what we need to do relative to boots on the ground. That means we have to increase—by 1,500, 2,000, 2,000 in each of the next few years—the number of agents we put on the ground, the number of agents in the system.

The problem is very simple: One is a dollar issue, which should be able to be resolved but, secondly, it is an issue of being able to hire. It takes 30,000 applications, approximately, in order to hire 1,000 agents. It is very difficult to find the people we need—it is that simple—because of the language requirements and because of the educational requirements and because of the demands of the job. So it is not only an issue of money, it is an issue of hiring up. And that is a big problem for us.

A second problem we have is that the technology situation is dire, especially in the area of aircraft, where we are essentially functioning with a fleet of aircraft which has long outlived its purposes.

The average life of the P–3s we have in the air should be 20 years, but the average life of the P–3s that are actually flying is 40 years. I want to show you a picture of the problem we have with the P–3s, which basically is the backbone of our air surveillance. This is a crack in the bathtub fitting of a P–3. As a result, last year, we had 11,000 hours of P–3 flight, but this year alone we have had to reduce the P–3 flights by over 1,000 hours because we have had to retrofit these planes. Why? Because they are 40 years old or older, and they should have flown for 20 years.

We have the same problem in our helicopter fleet, where the average life is supposed to be 15 years for our helicopters. We are flying helicopters which have average lives of 30 years.

The same is true of our Beech King air fleet, where the average life is supposed to be 20 years, and they are well over 30 years.

These are problems of resources which need to be addressed. I will talk in a second as to how they should be addressed.

The third issue in the area of surveillance—we have heard about the Predator, which is the unarmed, in this case, air surveillance system along the border. This is a great breakthrough for us. We do not have to build a fence along the southern border. Building a fence would be the exact wrong message to send, in my opinion. There are certain sections where there are heavily populated communities where you are going to have to have some fencing, but the vast majority of the border does not require fencing, should not have fencing. It is the wrong image for us as a nation. And with technology, we can do a lot.

One of the keys to technology is the Predator. But we only have one Predator. We need 18 in order to effectively do the border. So, again, it is an issue of resources, putting resources in this area.

In the area of beds, we know the States are absorbing a huge amount of the costs of basically taking care of the illegal aliens who have been arrested. We know we do not yet have the beds necessary to be able to even hold the non-Mexican arrests, which are the people we are most concerned about from a terrorist standpoint. We need to add a lot of new beds. We need to be creative about this—not just having physical buildings; we need to figure out ways to use swing beds. We need to figure out ways to use closed military facilities, maybe tents, tent capabilities. But we need to put more resources in this area, although this Congress has attempted to do it by adding over 2,000 beds in the last few years.

So we have serious resource issues. Well, how do we address this issue? There will be a supplemental coming through here in a few days—in a week—which is the supplemental to fight the war on terror. Now, it seems to me that probably one of the core elements of fighting the war on terror is making sure your borders are secure.

I would hope within the limit of that supplemental we would be able to fund the capital needs or at least make the first downpayment on the major capital needs I have just outlined in the border areas, specifically: the aircraft, replace those P–3 aircraft, buy more Predators, replace the helicopters, make sure the cars these agents drive can go out in the field day after day and still work well so we can move the agents out into the field, make the capital investments in the buildings necessary in order to take care of these people.

Mr. President, I ask unanimous consent for 2 additional minutes.

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

Mr. GREGG. That is something we should do now. It is something we should do in the context of national defense, and it should be done as part of the supplemental.

The bigger problem we have is that when the Homeland Security bill hits this floor, we are going to have to figure out a way to pay for this. The administration has proposed we increase fees on air transportation. Well, air transportation fees do not necessarily line up with Border Patrol needs. In fact, the Border Patrol needs are not affected by air transportation fees. Air transportation fees fund things such as TSA. So it is unlikely that fee is going to occur. But if we do not do it, we are going to have a $1.6 billion hole in the Homeland Security budget. We cannot afford that. We need those extra dollars. So we will have to come up with a way to do that. I am making my commitment to do that.

But the reason I wanted to speak today was to make it clear we can, with additional resources, accomplish the first step to border security and to good immigration policy, which is border security, which allows us to know who is coming into this country. It is a very doable thing. All it takes is resources. I believe we should have, as a Congress, the wherewithal and the willingness to commit those resources.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, first, I commend Senators MCCAIN and KENNEDY, who are on the Senate floor. They have really pointed the way for a positive resolution of a problem we have faced for generations in America.

The immigration system in our country is seriously broken, and we know it. It is obvious, as we look at the number of undocumented people in America and as we consider, those of us in this line of work, all of the families who come to us with problems with the current system. There is so much unfairness, so much injustice. We can do better as a nation, a nation of immigrants.

Now the Senate will face a very clear and stark choice. Senator FRIST brings to the floor an alternative. His is an alternative that focuses on enforcement.

Well, Senator FRIST is not alone in believing we need to be better at enforcing the laws of our country. In fact, Senator FRIST's bill and the bill I support—the one that came from the Senate Judiciary Committee, supported by Senator SPECTER, the chairman of the committee, inspired by Senators MCCAIN and KENNEDY in major part—is a bill which also focuses on enforcement.

Both bills double the size of the Border Patrol by adding 12,000 new agents. Both bills strengthen interior enforcement of immigration laws by adding 5,000 new immigration investigators. Both bills would take advantage of new technology to create a ''virtual fence'' at the border. Both bills would improve border controls by expanding entry-exit tracking. Both bills require the construction of new vehicle barriers and new permanent highway checkpoints near the border. The list goes on and on. The bills are the same when it comes to enforcement at our broken borders, as it should be.

But what the Frist bill does beyond that is what is clearly unacceptable, from my point of view, and was unacceptable in the Senate Judiciary Committee. The Frist bill continues the provision that was started in the House of Representatives which criminalizes those who are here in undocumented status and those who help them. That is where this bill, the Frist bill, crosses the line. That is why it is unacceptable. This concept was rejected in the Senate Judiciary Committee and should be rejected on the floor of the U.S. Senate.

Think about it for a moment. Are we serious that we are going to charge 12 million people with the crime that Senator FRIST would create in his provision? Are we saying to people who are here in the United States under a myriad of different circumstances that they are going to be treated as criminals amongst us?

To what end? To arrest them, to apprehend them, to prosecute them, to incarcerate them? Of course, we can't do that. With 12 million people, it can't be done.

But by branding them as criminals at the outset, it is a guarantee they will never come out of the shadows. They will stay lurking as part of our culture, part of our economy in illegal status indefinitely. Criminalizing them is not the answer.

Sadly, the bill goes even further. In the instance of undocumented people amongst us, it would subject them to a misdemeanor subject to 6 months in jail, but it goes much further for the Good Samaritans who assist them. That is the most outrageous element of the Frist bill. It is harsh. It is not American.

Consider this for a moment. If a priest counsels a mother that she should remain in the United States with her children who happen to have been born here and are American citizens, that priest can be found guilty of an aggravated felony for having counseled her to stay in the United States. In the city of Chicago, which I am proud to represent, we have a domestic violence shelter, Mujeres Latinas en Accion. It is in a section known as Little Village. It is primarily a Mexican section of our city. Some are citizens; some are not. This domestic violence shelter brings in battered mothers and their children to protect them from their abusive, drunken husbands while they call the police department. The social workers who are standing at the door protecting those mothers and children would be subject to being charged with a felony under the Frist provisions. A nurse who offers to a mother at a medical clinic the advice that she should bring her child back, without checking to make certain she is not undocumented, could be charged with a felony. Is that where we are headed? Is that the kind of America we want to live in? I don't think so.

The Senate Judiciary Committee rejected that. Why Senator FRIST continues to offer it, I don't know. I don't think it is consistent with the goal we all share. The goal we share is in repairing the system, better enforcement at the borders, better enforcement when it comes to employment so we will know if employers are exploiting the undocumented. That is part of real enforcement that will lead to fairness and justice in the way we deal with immigration.

There's another problem with the majority leader's bill. It would do nothing to address the situation of 12 million undocumented immigrants who currently live in our country. We need tougher enforcement, but in the Judiciary Committee bill we acknowledge something that the majority leader's bill does not: A strategy that focuses on enforcement only is doomed to failure.

Beyond that, the McCain-Kennedy bill, which is an inspired piece of legislation, would offer a chance for immigrants who work hard and play by the rules to earn their way to citizenship over the course of many years. This is not an amnesty. Amnesty says we forgive you. The McCain-Kennedy bill does not say that. The McCain-Kennedy bill says: If you are here undocumented for a variety of reasons, if you are here without legal status, there is a path you can follow. It is a long path, a demanding path, but at the end, you could end up in a legal position or have a chance. That is the best approach for us to use.

Let me tell you exactly what the McCain-Kennedy provisions would require in this path to legalization. It is not a free ride. It is not a get-out-of-jail-free card. Let me tell you what you would have to do during the course of an 11-year commitment on your part to finally reach citizenship: a clean criminal record, employment since before January 2004, remaining continuously employed during this period, paying approximately $2,000 in fines and fees, passing a security background check, passing a medical examination, learning English, learning U.S. history and government, and paying all back taxes. If you have complied with all of those requirements, you will go to the back of the line behind all applicants currently waiting for green cards. That is not an amnesty; that is a demanding process which will test the undocumented as to whether they really want to be part of America on a legal and permanent basis.

All of us understand—those of us who are the sons and daughters of immigrants—that the people who come to these shores bring a special quality. David Brooks of the New York Times has an article which I ask unanimous consent to print in the RECORD.

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

IMMIGRANTS TO BE PROUD OF

(By David Brooks)

Everybody says the Republicans are split on immigration. The law-and-order types want to close the border. The free-market types want plentiful labor. But today I want to talk to the social conservatives, because it's you folks who are really going to swing this debate.

I'd like to get you to believe what Senator Sam Brownback of Kansas believes: that a balanced immigration bill is consistent with conservative values. I'd like to try to persuade the evangelical leaders in the tall grass to stop hiding on this issue.

My first argument is that the exclusionists are wrong when they say the current wave of immigration is tearing our social fabric. The facts show that the recent rise in immigration hasn't been accompanied by social breakdown, but by social repair. As immigration has surged, violent crime has fallen by 57 percent. Teen pregnancies and abortion rates have declined by a third. Teenagers are having fewer sexual partners and losing their virginity later. Teen suicide rates have dropped. The divorce rate for young people is on the way down.

Over the past decade we've seen the beginnings of a moral revival, and some of the most important work has been done by Catholic and evangelical immigrant churches, by faith-based organizations like the Rev. Luis Cortés's Nueva Esperanza, by Hispanic mothers and fathers monitoring their kids. The anti-immigration crowd says this country is under assault. But if that's so, we're under assault by people who love their children.

My second argument is that the immigrants themselves are like a booster shot of traditional morality injected into the body politic. Immigrants work hard. They build community groups. They have traditional ideas about family structure, and they work heroically to make them a reality.

This is evident in everything from divorce rates (which are low, given immigrants' socioeconomic status) to their fertility rates (which are high) and even the way they shop.

Hispanics and Hispanic immigrants have less money than average Americans, but they spend what they have on their families, usually in wholesome ways. According to Simmons Research, Hispanics are 57 percent more likely than average Americans to have purchased children's furniture in the past year. Mexican-Americans spend 93 percent more on children's music.

According to the government's Consumer Expenditure Survey, Hispanics spend more on gifts, on average, than other Americans. They're more likely to support their parents financially. They're more likely to have big family dinners at home.

This isn't alien behavior. It's admirable behavior, the antidote to the excessive individualism that social conservatives decry.

My third argument is that good values lead to success, and that immigrants' long-term contributions more than compensate for the short-term strains they cause. There's no use denying the strains immigration imposes on schools, hospitals and wage levels in some markets (but economists are sharply divided on this).

So over the long haul, today's immigrants succeed. By the second generation, most immigrant families are middle class and paying taxes that more than make up for the costs of the first generation. By the third generation, 90 percent speak English fluently and 50 percent marry non-Latinos.

My fourth argument is that government should be at least as virtuous as the immigrants themselves. Right now (as under Bill Frist's legislation), government pushes immigrants into a chaotic underground world. The Judiciary Committee's bill, which Senator Brownback supports, would tighten the borders; but it would also reward virtue. Immigrants who worked hard, paid fines, paid their taxes, stayed out of trouble and waited their turn would have a chance to become citizens. This isn't government enabling vice; it's government at its best, encouraging middle-class morality.

Social conservatives, let me ask you to consider one final thing. Women who have recently arrived from Mexico have bigger, healthier babies than more affluent non-Hispanic white natives. That's because strong family and social networks support these pregnant women, reminding them what to eat and do. But the longer they stay, and the more assimilated they become, the more bad habits they acquire and the more problems their subsequent babies have.

Please ask yourself this: As we contemplate America's moral fiber, do the real threats come from immigrants, or are some people merely blaming them for sins that are already here?

Mr. DURBIN. Mr. Brooks' message was addressed primarily to Republicans and conservatives, but he spells out for all who read it what these immigrant people bring to America. My mother came to these shores in 1911 at the age of 2. Her mother, my grandmother, brought her from Lithuania with her brother and sister. They made to it East St. Louis, IL, where my grandfather worked in a steel mill. My mom dropped out of school after the eighth grade, which was not unusual in her time, got married, and a few years later became a naturalized citizen. Her son is now the 47th Senator from the State of Illinois. Those stories can be told over and over.

Think of the courage of the people who came here, starting with my family and others, the courage to leave behind your village, your church, your language, your relatives, your friends, to come to a country you have never seen before with a language you didn't speak to try to make a better life. So many of us are so blessed to be here from the start, but others fight night and day for the chance to come. They don't just bring another body to be counted; they bring a spirit. It is a spirit of hard work and determination, creativity, entrepreneurship. It is a spirit of family values that we should treasure. Mr. Brooks says as much in his article.

This is a positive force in the development of America, and it always has been. We should look at this as a positive opportunity for America to be a stronger nation, a nation that grows in the right direction with the right people and the right values.

The Frist bill is the wrong approach. Criminalizing those who are here, charging those who help them with felonies for simply providing humanitarian assistance is wrong. It is far better for us to take the more constructive and comprehensive approach of the Specter bill that was reported by the Senate Judiciary Committee.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent, with the agreement of the Senator from Massachusetts, to use his time and an additional 5 minutes, if necessary.

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

Mr. MCCAIN. First, I thank my friend from Massachusetts for allowing me this time. Working with him on this issue has been an experience that I believe will result in benefit to the country. I appreciate the effort we have made together.

As we know, the Senate is beginning debate on a very important and complex subject that is among the most difficult and divisive we face. Our Nation's immigration system is broken. Without comprehensive immigration reform, our Nation's security will remain vulnerable. That is why we must act.

I begin by commending Chairman SPECTER and the members of the Judiciary Committee for the considerable effort they have taken to report a comprehensive immigration reform measure that could be considered during this debate. While I am not in agreement with each and every provision, it is a great starting point for the debate.

Those of us from border States witness every day the impact illegal immigration is having on our friends and neighbors, our county and city services, our economy, and our environment. We deal with the degradation of our lands and the demands imposed on our hospitals and other public resources. Our current system doesn't protect us from people who want to harm us. It doesn't meet the needs of our economy. It leaves too many people vulnerable to exploitation and abuse.

Throughout this debate, we will be reminded that immigration is a national security issue, and it is. It is also a matter of life and death for many living along the border. We have hundreds of people flowing across our borders every day, an estimated 11 million to 12 million people living in the shadows in every State in our country. While we believe the majority are hard-working people contributing to our economy and society, we can also assume there are some people who want to do us harm hiding among the millions who have come here only in search of better lives for themselves and their families. We need new policies that will allow us to concentrate our resources on finding those who have come here for purposes more dangerous than finding a job.

Last year, when Senators KENNEDY, BROWNBACK, LIEBERMAN, GRAHAM, MARTINEZ, OBAMA, SALAZAR, and I worked together to develop a sensible, bipartisan and comprehensive immigration reform measure, first and foremost among our priorities was to ensure our bill included strong border security and enforcement provisions. We need to ensure that the Department of Homeland Security has the resources it needs to secure our borders to the greatest extent possible. These include manpower, vehicles, and detention facilities for those apprehended. But we also need to take a 21st century approach to this 21st century problem. We need to create virtual barriers as well through the use of unmanned aerial vehicles, ground sensors, cameras, vehicle barriers, advanced communications systems, and the most up-to-date security technologies available to us.

The border security provisions under the leader's bill and the Judiciary Committee's bill provide sound proposals to promote strong enforcement and should be part of any final bill. However, I do not believe the Senate should or will pass an enforcement-only bill. Our experiences with our current immigration system have proven that outdated or unrealistic laws will never be fully enforceable regardless of every conceivable border security improvement we make. Despite an increase in Border Patrol agents from 3,600 to 10,000, despite quintupling the Border Patrol budget, despite the employment of new technologies and tactics, all to enforce current immigration laws, illegal immigration drastically increased during the 1990s. While strengthening border security is an essential component of national security, it must also be accompanied by immigration reforms.

We have seen time and again that as long as there are jobs available in this country for people who live in poverty and hopelessness in other countries, these people will risk their lives to cross our borders no matter how formidable the barriers, and most will be successful. Our reforms need to reflect the reality and help us separate economic immigrants from security risks. We need to establish a temporary worker program that permits workers from other countries to the extent they are needed to fill jobs that would otherwise go unfilled.

We need workers in this country. There are certain jobs Americans are simply not willing to do. For example, today in California and Arizona, food is rotting on the vine and lettuce is dying in the fields because farmers can't find workers to harvest their crops. At the same time, resorts in my own State of Arizona cannot open to capacity because there are not enough workers to clean the rooms. Restaurants are locking their doors because there is no one to serve the food or clear the dishes. We are facing a situation whereby the U.S. population does not provide the workers businesses desperately need, yet the demand for their services and products continues. The current immigration system does not adequately and lawfully address this problem. As long as this situation exists without a legal path for essential workers to enter the country, we will have desperate people illegally crossing our borders and living in the shadows of our towns, cities, and rural communities. That is not acceptable, particularly when we are fighting a war on terror.

The vast majority of individuals attempting to cross our borders do not intend to harm our country. They are coming to meet our demand for labor and earn money to feed their families. By the Border Patrol's own estimates, 99 percent of those apprehended coming across the border are doing so for work. However, the Border Patrol is overwhelmed by these individuals. They cannot possibly apprehend every crosser being smuggled in, no matter how many resources we provide. That is why any immigration legislation that passes Congress must establish a legal channel for workers to enter the United States after they have passed background checks and have secured employment. Then we can free up Federal officials to focus on those individuals intending to do harm through drug smuggling, human trafficking, and terrorism.

In addition to a temporary worker program for future immigrants, we have to address the fact that 11 to 12 million people are living in the United States illegally, most of them employed, many whose children were born here and are, therefore, American citizens. Our economy has come to depend on people whose existence in our country is furtive, whose whereabouts and activities in many cases are unknown.

I have listened to and understand the concerns of those who simply advocate sealing our borders and rounding up and deporting undocumented workers currently in residence here.

Easier said than done. I have yet to hear a single proponent of this point of view offer one realistic proposal for locating, apprehending, and returning to their countries of origin over 11 million people. How do we do that? The columnist George Will quite accurately observed that it would take 200,000 buses extending along a 1,700 mile long line to deport 11 million people. That's assuming we had the resources to locate and apprehend all 11 million, or even half that number, which we don't have and, we all know, won't ever have. And even if we could exponentially increase the money and manpower dedicated to finding and arresting undocumented workers in this country, and inventing some deportation scheme on a scale that exceeds all reality, we would, by removing these people from their jobs, damage the American economy.

Instead, what we have allowed to be in effect is a de facto amnesty, where, for all practical purposes, a permanent underclass of people live within our borders illegally, fearfully, subserviently, vulnerable to abuse and exploitation. Most of these people aren't going anywhere. No matter how much we improve border security. No matter the penalties we impose on their employers. No matter how seriously they are threatened with punishment. We won't find most of them. We won't find most of their employers. There are jobs here that Americans aren't accepting, that people in other countries who have no future there will eagerly accept. They will find their way to those jobs, and employers who can't fill them any other way will employ them.

And what of those we do apprehend? Do they have children who were born here? What shall we do with these Americans—and they are Americans by virtue of their birth here—when we deport their parents? Shall we build a lot of new orphanages? Find adoptive parents for them? Deny their citizenship and ship them back, too? No, Mr. President, we'll do none of these things. We'll simply continue our de facto amnesty program. Because we all know, we aren't going to find and deport so many millions and suffer the dislocation and agonizing moral dilemmas that such an impossible task would engender. So let's be honest about that, shall we?

The opponents of our attempt to address undocumented workers in this country decry as amnesty our proposal to bring them out from their shadows and into compliance with our laws amnesty. No, Mr. President, it is not. Amnesty is, as I observed, for all practical purposes what exists today. We can pretend otherwise, but that doesn't make it so. Amnesty is simply declaring people who entered the country illegally citizens of the United States, and imposing no other requirements on them. That is not what we do, Mr. President.

Under the provisions of our legislation, undocumented workers will have incentives to declare their existence and comply with our laws. They may apply for a worker visa. They would be subjected to background checks. They must pay a substantial fine, pay their back taxes, learn English, and enroll in civic education, remain employed here for six years, and then, at the end of those six years, go to the back of the line to apply for legal permanent resident (LPR) status. I believe most undocumented workers will accept these requirements in order to escape the fear, uncertainty and vulnerability to exploitation they currently endure. And while those who have come here to do us harm won't come out of hiding to accept these conditions, we will at least be spared the Herculean task of finding and sorting through millions of people who came here simply to earn a living.

What are our opponent's alternatives? Raid and shutter businesses in every city and state in the country? Clog our courts with millions of immigration cases? Offer illegal immigrants the not too appealing opportunity to ''report to deport?'' We propose a better solution that is consistent with our country's tradition of being a nation of laws and a nation of immigrants.

Mr. President, we are aware of the burdens illegal immigrants impose on our cities and counties and States. Those burdens, which are a Federal responsibility, must be addressed. And we need also to face honestly the moral consequences of our current failed immigration system.

As I mentioned previously, immigration reform is a matter of life and death for some. At this moment, someone may be dying in the Arizona desert. According to border patrol statistics, 330 people died in fiscal year 2004, and that figure increased by 43 percent—to 472 deaths—in 2005. As temperatures in the deserts get higher and the desperation more tangible, we can only expect the death tolls to increase further this fiscal year.

In October of 2003, the Arizona Republic ran a story entitled ''205 Migrants Die Hard, Lonely Deaths.'' I would like to read an excerpt from that story:

[In 2003] the bodies of 205 undocumented immigrants were found in Arizona. Official notations of their deaths are sketchy, contained in hundreds of pages of government reports.

Beyond the official facts, there are sometimes little details, glimpses, of the people who died.

Maria Hernandez Perez was No. 93. She was almost 2. She had thick brown hair and eyes the color of chocolate.

Kelia Velazquez-Gonzalez, 16, carried a Bible in her backpack. She was No. 109.

In some cases, stories of heroism or loyalty or love survive.

Like the Border Patrol agent who performed cardiopulmonary resuscitation on a dead man, hoping for a miracle. Or the group

of migrants who, with law officers and paramedics, helped carry their dead companion out of the desert. Or the husband who sat with his dead wife through the night.

Other stories are almost entirely lost in the desolate stretches that separate the United States and Mexico.

Within weeks, the heat makes mummies out of men. Animals carry off their bones and belongings. Many say their last words to an empty sky.

John Doe, No. 143, died with a rosary encircling his neck. His eyes were wide open.

I am hopeful that at the end of this debate in the weeks ahead, we can show the American people that we addressed a serious and urgent problem with sound judgment, honesty, common sense and compassion.

There are over 11 million people in this country illegally. They harvest our crops, tend our gardens, work in our restaurants, care for our children, clean our homes. They came as others before them came, to grasp the lowest rung of the American ladder of opportunity, to work the jobs others won't, and by virtue of their own industry and desire, to rise and build better lives for their families and a better America. That is our history, Mr. President. We are not a tribe. We are not an ethnic conclave. We are a Nation of immigrants, and that distinction has been essential to our greatness.

Yes, in this post 9/11 era, America must enforce its borders. There are people who wish to come here to do us harm, and we must vigilantly guard against them, spend whatever it takes, devote as much manpower to the task as necessary. But we must also find some way to separate those who have come here for the same reasons every immigrant has come here from those who are driven here by their hate for us and our ideals. We must concentrate our resources on the latter and persuade the former to come out from the shadows. We won't be able to persuade them if all we offer is a guarded escort back to the place of hopelessness and injustice that they had fled.

Why not say to those undocumented workers who are working the jobs that the rest of us refuse, come out from the shadows, earn your citizenship in this country? You broke the law to come here, so you must go to the back of the line, pay a fine, stay employed, learn our language, pay your taxes, obey our laws, and earn the right to be an American. Riayen Tejada immigrated to New York from the Dominican Republic. He came with two dreams, he said, to become an American citizen and to serve in the United States Marine Corps. He willingly accepted the obligations of American citizenship before he possessed all the rights of an American. Staff Sergeant Tejada, from Washington Heights by way of the Dominican Republic, the father of two young daughters, died in an ambush in Baghdad on May 14, 2004. He had never fulfilled his first dream to become a naturalized American citizen. But he loved this country so much that he gave his life to defend her. Right now, at this very moment, there are fighting for us in Iraq and Afghanistan soldiers who are not yet American citizens but who have dreamed that dream, and have risked their lives to defend it. They should make us proud, not selfish, to be Americans.

They came to grasp the lowest rung of the ladder, and they intend to rise. Let them rise. Let them rise. Let us take care to protect our country from harm, but let us not mistake the strengths of our greatness for weaknesses. We are blessed, bountiful, beautiful America—the land of hope and opportunity—the land of the immigrant's dreams. Long may she remain so.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3192

Mr. SPECTER. Mr. President, yesterday Senator FRIST spoke about his bill and I spoke about the committee bill. We said that today, after there had been speeches, at approximately noon, I would propose an amendment that would be the committee bill.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 3192.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. SPECTER. Mr. President, as noted, this amendment will put before the Senate the bill which was passed out of the Judiciary Committee on Monday. There is one modification. There is a title which remains as to judicial review, and for procedural purposes, we have left the title in as to judicial review. But it is my intention to modify that, depending upon what the hearing discloses on Monday.

As is known, we worked under considerable time pressure. The leader wanted a bill reported out on Monday. People came back from recess early, and people were in town on Sunday night so we could start Monday morning, which we did at 10 o'clock, and worked through until 1 p.m., and then from 2 p.m. until past 6 p.m.

The section on judicial review was not subject to debate because the chairman's mark had a consolidation of the Federal circuit. We had considerable debate about that, so we have scheduled a hearing for Monday where we will take up those issues. Then in the course of floor debate next week, we will modify that section, depending upon what we hear and what we decide to do.

Mr. President, I ask that Senator LEAHY, the distinguished ranking member, be listed as the original cosponsor.

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

Mr. SPECTER. Mr. President, the schedule, as agreed to, will call for continued debate. The majority leader, Senator FRIST, will have an amendment to offer involving the subject of deaths at the border. It is anticipated that there will be a 3 o'clock vote on the Frist amendment and that there will be an allocation and scheduling of time for debate until 5 o'clock.

Yesterday I urged Senators to file their amendments, to make them known to the ranking member, Senator LEAHY, and myself, so we could schedule debate. We have a prodigious task ahead of us. We are scheduled for a 2-week recess beginning at the close of business a week from tomorrow. It is going to be a daunting task to finish this bill on that schedule, but we have undertaken daunting tasks before and succeeded. That can be done only if we have cooperation from Members.

I ask Members who have amendments to consider at the outset time agreements so we can move ahead. I give notice to my colleagues that in order to complete this business, we are going to have to hold the voting time to 15 minutes, plus the 5-minute leeway, but we are not going to allow the votes to run 25 minutes, 30 minutes, 21 minutes. We are going to move ahead under the rules of the Senate.

As I say, it is a prodigious job to get finished by next Thursday night or on Friday. The temper of the Senate is to try to finish on a Thursday late before a recess, but to do that we are going to have to have a lot of cooperation to avoid a Friday session or, depending on the will of the leader, a session beyond Friday into the weekend, if necessary, to complete this bill.

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. ALEXANDER. 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. ALEXANDER. Mr. President, I understand the majority leader may be coming soon and, if he does, I will suspend my remarks so he may be recognized and hope that after he is recognized, I can continue with my remarks.

This week, the Senate begins an overdue reform of our immigration laws. The Chair has been in the middle of that and is making contributions to it. Because nearly 10,000 illegal aliens cross the United States border every day, more than 3 million a year, we

should start—start—with border security. But then, once we secure the border and can uphold our limits on immigration, we should get quickly back to the American tradition of creating a legal status for those whom we welcome to temporarily work and study in the United States and who, by doing so, enrich our diversity and spur our economy. But my purpose today is to make sure we don't stop there, that we don't overlook, as Paul Harvey might say, ''the rest of the story,'' the rest of the immigration story; that is, helping prospective citizens who are legally here become Americans.

Joined by Senators CORNYN, ISAKSON, COCHRAN, SANTORUM, FRIST, and MCCONNELL, I have introduced S. 1815, the Strengthening American Citizenship Act that is indispensable to any comprehensive immigration bill. This legislation I plan to offer as an amendment at the appropriate time during this debate would help legal immigrants who are embarked on a path toward citizenship to learn our common language, to learn our history, and to learn our way of government by the following steps:

No. 1, providing them with $500 grants for English courses; No. 2, allowing those who become fluent in English to apply for citizenship 1 year early; that is, after 4 years instead of 5; next, providing grants to organizations to offer courses in American history and civics; next, authorizing a new foundation to assist in these efforts; next, codifying the oath of allegiance, which new citizens swear when they are naturalized. It is an oath of allegiance that is very much like the oath of allegiance George Washington and his officers took at Valley Forge in 1778, about which I am going to have more to say.

In addition, our amendment would ask the Homeland Security Department, working with the National Archivist and others in our Government, to carry out a strategy to highlight the ceremonies, such as the one the President attended this week, in which immigrants become American citizens; finally, our amendment would establish an award to recognize the contribution of outstanding new American citizens.

Harvard political scientist Samuel Huntington has written that most of our politics is about conflicts among principles that unite us as a country. More than any other subject we might discuss, this immigration debate will involve the basic principles of what it means to become an American. That is why we begin the debate with border security, not because we are pro-immigrant or anti-immigrant. That is not what we are talking about. We begin the debate with border security because as Americans we believe in the principle of the rule of law.

It is hypocritical for us in the United States of America to preach to the world about the rule of law, yet thumb our nose at the 12 million people who live here illegally. It is hypocritical and it is dangerous to our security not to control our own borders.

There is no apology to be made for us as Americans insisting on the principle of the rule of law, just as there should be no other hesitancy about other principles, such as welcoming those who temporarily work here and study here. So the principle of the rule of law is not the only principle that is at stake in this debate. We create a legal status for those from other countries whom we welcome to temporarily study and work here because of the principle, first, of equal opportunity, because we are a nation of immigrants; that is a part of our character, and because we founded our economy upon the principle of laissez faire. In other words, we are a free market economy.

So there are three more principles we need to throw into the mix along with the rule of law: equal opportunity, a nation of immigrants, laissez faire.

We may be outsourcing jobs, but for years we have won our wars and built our economy by ''insourcing'' brain power. Wernher von Braun and his colleagues from Germany helped us in the space race against the Soviets. Sixty percent of the American winners of Nobel Prizes in physics are immigrants or children of immigrants. Sixty percent of the postdoctoral students at our universities in America are foreign students. There are 572,000 foreign students studying at colleges and universities in the United States. While they are here, these students and researchers from other countries help create a higher standard of living for us Americans, and when they go home they export our values better than any foreign aid ever has.

In addition, many of the workers our economy needs to grow come from neighboring countries. I asked my staff to see if I could get an estimate of how many visas we have on the books today for workers coming to the United States from other countries. As best we can tell, we have about 500,000 visas of different forms that may be issued each year, of one kind or another, to unskilled and skilled people who come to our country. Add that to the 572,000 foreign students who study in our country and we have today a large number of people from other parts of the world who are here, enriching our country and improving our standard of living.

I ask unanimous consent that this list of visas for workers coming to the United States from other countries each year be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. ALEXANDER. Mr. President, these temporary students and workers have helped us create an economy that last year produced 30 percent of the world's wealth for us Americans alone, who constitute just 5 percent of the world's population. It makes no sense for us to have an immigration system that makes it easy for unskilled workers to come here illegally and harder for the brightest people to come here legally. That is why it is my hope this comprehensive immigration bill we are considering will have in it the ideas that would make it easier, modestly easier, for a larger number of highly skilled people to come here and help us create better jobs.

For example, there are two recommendations that were made in the document called ''Rising Above the Gathering Storm,'' by the National Academy of Sciences panel, headed by Norm Augustine. This was a set of 20 recommendations that was made to us in Congress by this distinguished panel last summer in answer to our question: What should we do to keep our advantage in science and technology so that our good-paying jobs don't go to India and China?

They told us 20 things to do. Two of the things to do had to do with making it easier for the most intelligent people in the world to work and study and do research here. One of the ideas would be to give a green card, a permanent residency card, to any student from overseas who earns a doctorate in mathematics, engineering, technology, or the physical sciences. Those persons could stay here and help improve our standard of living.

For example, at the Oak Ridge National Laboratory in Tennessee, the largest science laboratory in the United States of America, the director, the assistant director, and the head of our United States effort to recapture the lead in supercomputing in the world—those jobs are all filled by people from other countries who have green cards, who are here helping us improve our standard of living. So we are glad they are here, and we should make it easier for such people to come.

Craig Barrett, the head of Intel, estimates if we were to adopt this provision, that would mean perhaps 12,000 to 15,000 additional doctoral students in math, engineering, technology, or physical sciences, once they earn their degree, can stay in the United States.

The other provision was at one point in the Judiciary Committee mark. It may still be there. But it takes the cap off some categories of highly advanced people who have earned an advanced degree in science, technology, engineering, and math. It is simply in our own interest to do that. It continues a long tradition and is one more example of why we already have a tradition of welcoming workers and students who temporarily work here.

So we have at least four principles at play that I have talked about: The rule of law, equal opportunity, laissez faire, and we have the characteristic of our country being a nation of immigrants. But there is another principle that I believe is the single most important principle we have in this debate and it is the one that is engraved above the chair of the Presiding Officer. It is the motto of this country: E pluribus

unum. Our work will not be complete until we help prospective citizens become Americans because our country's greatest accomplishment is based upon that principle. That is, we have united people from many different backgrounds into one nation based upon the belief in a few ideas, rather than upon race, ancestry, or background.

Of all the principles we will be debating in these next 2 weeks, none is more important than that one chosen as our national motto, the one carved in stone above the desk, E pluribus unum: one from many.

We are not here dividing sides up on who is pro-immigrant and who is anti-immigrant. We are here saying we have 5 important principles we all believe in that unite us as Americans, from rule of law to equal opportunity to E pluribus unum. We are trying to put those together in a sensible way. That is what our politics is about. That is most of what we do in the Senate and that is what the people expect us to do today. Each year we welcome about 1 million permanent new legal residents, many of whom go on to become citizens. I am now talking about people who are legally in the United States of America.

To become an American is a significant accomplishment. First, you must live in the United States as a legal permanent resident for 5 years. Next, you must learn to speak English, our common language. Next, you must learn about our history and Government. Since we are united by ideas rather than the color of our skin, one has to learn these ideas to become a citizen. Next, you must swear an oath and renounce the government of the country from which you came and then swear allegiance to the United States of America.

Those are pretty strong words—renounce the government of the country from which you came and swear allegiance to the country to which you are going. Where does that come from? This is where it comes from. This oath dates back to May 12, 1778, when General George Washington and the general officers at Valley Forge signed an oath very similar to the one taken by the 30 citizens the President swore in on Monday, the oath that more than 500,000 new American citizens took last year in hundreds of naturalization ceremonies all over America.

Here is a portion of the oath Washington and his general officers swore:

I, George Washington, Commander in Chief of the armies of the United States of America, do acknowledge the United States of America to be Free, Independent, and Sovereign states, and declare that the people thereof owe no allegiance or obedience to George the Third, King of Great-Britain; and I renounce, refuse and abjure any allegiance or obedience to him; and I do swear that I will to the utmost of my power, support, maintain and defend the said United States of America. . . .

Those were remarkable words then. Those were remarkable words on Monday, when those 30 new citizens stood up and said the same thing.

The language in the oath immigrants take today comes from that oath in 1778. It says in effect: I may be proud of where I come from, but I am prouder of where I am. In both the last session of Congress and in this session, Senator SCHUMER and I introduced legislation, S. 1087, to put the wording of the oath of allegiance derived from this into law, giving it the same dignity as the Star Spangled Banner and the Pledge of Allegiance.

Becoming an American is also a unique experience because it has nothing to do with ancestry. America is an idea, not a race. We are united by principles expressed in our founding documents, the very principles we are debating in this immigration legislation, not by our multiple ancestries.

Americans enjoy more rights than the citizens of any nation on the face of the Earth and our Founders recognized, as every citizen and prospective citizen must, that along with those rights come responsibilities. The new citizens, like those who came before, must appreciate this simple but fundamental truth: In a free society, freedom and responsibility go hand in hand.

Some have suggested our diversity is what makes our country great.

To be sure, diversity is one of our great strengths, but diversity is not our greatest strength. Jerusalem is diverse. The Balkans are diverse. Iraq is diverse. The greatest accomplishment of the United States of America is that we have molded that magnificent diversity into one nation, based upon a set of common principles, language, and traditions.

That is why the words above the desk of the Presiding Officer say one from many, not many from one. And that is why a comprehensive immigration bill is not complete unless we help prospective citizens who are legally here become Americans.

We could look to Great Britain and France to remind us of how fortunate we are to have had two centuries of practice helping new citizens become Americans. Last August, when he announced a number of measures regarding British citizenship, Prime Minister Tony Blair said:

People who want to be British citizens should share our values and our way of life.

These new rules were spurred by the terrorist attack in London in which four young men, three of whom were the British-born children of Pakistani immigrants, bombed the London subway system.

France is facing a similar period of self-examination on integrating immigrants and the children of immigrants following violent civil unrest this last November.

According to the French Ambassador:

These teenagers feel alienated and discriminated against both socially and economically. They don't want to assert their difference. They want to be considered 100 percent French.

It is hard to imagine becoming French or becoming British or becoming Japanese or Chinese or German, for that matter. On the other hand, to be a citizen of this country, one must become an American. We should be wise enough to take a lesson from the difficulties of our friends overseas and redouble our effort to help new citizens become Americans. This is, of course, one more reason to control our borders—so that we know who is coming from other countries and can help those who legally choose to stay here to become Americans.

We Americans have always understood that perhaps the most important limit on how many new citizens our country can successfully absorb depends upon how many can be assimilated as Americans. Robert Putnam has written in the book ''Bowling Alone'' how at the beginning of the 20th century, when America experienced an influx of foreigners about as great in terms of percentages as that of today, the Nation took seriously the issue of assimilation. It was during this time that civic organizations such as the Boy Scouts and the Girl Scouts and the Rotary Clubs were launched. Many industries had programs that taught English and history to foreign workers. The most important agent of assimilation was the common school, what we call today the public school.

The late Albert Shanker, president of the American Federation of Teachers, said the public school was created largely ''to teach immigrant children reading, writing, and arithmetic—and what it means to be an American.''

Yet today U.S. history is not as important a part of the school curriculum as it once was. As a result, high school seniors score lower on U.S. history than on any other subject. I have worked with Senators KENNEDY, BYRD, REID, and a number of others to help put the teaching of American History and civics back in its rightful place in our schools so our children can grow up learning what it means to be an American.

But while we are teaching our children more about what it means to be an American, we should also be stepping up efforts to help the 500,000 to 1 million permanent legal residents who are living legally among us and who will this year become American citizens.

During these next 2 weeks, we should enact legislation to secure our borders. That honors the principle of the rule of law. Then we should create a legal status for the workers and the students we welcome here to help increase our standard of living, as well as to support our values. That honors the principle that we are a nation of immigrants, that we believe in equal opportunity, and that we believe in a free market, laissez faire. But we should not complete work on a comprehensive immigration bill without remembering why we have placed that three-word motto above the Presiding Officer's chair,

without remembering that our unity did not come without a lot of effort, without noticing lessons from overseas that remind us that it is more important today than ever to help prospective citizens become Americans.

In the spring of 2002, 4 years ago, when Senator Fred Thompson decided not to run for reelection, my job then was on the Harvard faculty at the Kennedy School of Government. I was teaching a class I created there called the American Character and America's Government. Matt Sonnesyn, who is my senior policy adviser today, was my course assistant at the time.

In that course, we looked at the kinds of issues that Senators might deal with. I had no idea at the time that I might be a Senator. We tried to identify the principles that each of the problems raised. In other words, we recognized that since we are a nation united by principles, we wanted to be able to understand the principles and have a principled discussion when we got issues like school choice or support for faith-based institutions.

Perhaps the issue that created the most discussion in our class that semester was a question that was presented in this way: Should illegal immigrants in the State of Illinois have State driver's licenses?

The President of Mexico, Vicente Fox, had come to Chicago and asked the Illinois legislature to do that.

If one of my students had stood up and said: I have a pro-immigrant or an anti-immigrant solution to this problem, that student would probably have earned an F because I asked them to identify the principles that this issue raised. This was a typical university class of pretty smart students in an area where more of the students are to the left, I would say. There were several refugees from the recent Clinton administration, there were some international students, and there were students from all over our country of many races and backgrounds.

But the first issue this class raised when considering the question of driver's licenses for illegal immigrants in Illinois was the principle of the rule of law. Then we went right through the other principles that I have just discussed today. And a little bit to my surprise, this class came down very hard on the idea that, of all the principles considered, the principle of rule of law required no driver's licenses for people not legally here.

They came to that conclusion quickly. But they also came quickly to the conclusion that in a country that always values equal opportunity, laissez faire, and a nation of immigrants, that we should have clear rules for welcoming people who are temporarily working here and temporarily studying here, that there should be generous allotments for that, that it was in our interest. They also spent a lot of time talking about those three words above the Presiding Officer's chair, about how can we help all those who were here legally to learn what it is to be an American.

I was very impressed with the way our class 4 years ago at that university dealt with the issue of immigration. It had a similar problem to the one we are facing. They considered all the principles. It was not considered to be a pro-immigration or anti-immigration result. It was a discussion about principles in which we all agree, which collide, and it was up to the students in that class to come to a solution which was principled.

That is our job in this body. We need to let the American people know that we honor each of the principles that we talk about today. We should not step back one inch from honoring the principle of the rule of law, but we shouldn't be hesitant for one minute to welcome those who work here and study here because we also honor the principle of equal opportunity, being a nation of immigrants and the free market economy that we are.

I hope before we are through in these 3 weeks that we will do as the students did 4 years ago and realize that above all, when we talk about immigration, about people coming to this country, that what is distinctive about America, what is our greatest accomplishment, is not that we can figure out a way to create laws and virtual laws to control our borders, not that we can come up with some mathematical number of people who can work and study here, but what we have been able to do that France has not done, that Great Britain has not done, that China and Germany have not done—no country in the world has ever done the way we have—is that we have taken people from all different backgrounds and said we are the United States of America. And to become an American you believe in ideals, and it doesn't matter where you come from, what your race is, what your background is.

It is important that we keep that up front, that we honor our diversity but more important that we can be proud of where we come from but prouder where we are; that we honor the oath of allegiance that our amendment will seek to make law, where George Washington and his officers said we put aside where we came from—we may honor it, we may be proud of where we may go to reunions and talk about it, but we are Americans.

That is the most important subject for an immigration debate, and this bill will not be complete without it.

I look forward to offering an amendment at the appropriate time that adds to our discussion of helping prospective citizens become Americans. This would be the only country in the world in which such an amendment would have that kind of meaning.

EXHIBIT 1

VISAS FOR WORKERS COMING TO THE UNITED STATES (PER YEAR)

Type of Visa	Number per Year (cap)
"Green Card" or legal permanent residency includes exceptional, skilled, and unskilled workers (NOTE: a number of these folks originally came to the U.S. under H–1B or L, but then applied to become permanent; see below).	140,000

VISAS FOR WORKERS COMING TO THE UNITED STATES (PER YEAR)—Continued

Type of Visa	Number per Year (cap)
H–2A (Temporary Ag Workers)	no cap, but averages only 30,000
H–2B (Temporary, non-skilled, non-ag) landscaping, construction, etc.	66,000
H–1B (Professional Skilled Workers)	65,000
L Visa (intercompany transfers) Executives and employees with specialized knowledge of a company's product (and their families).	no cap, has grown to 123,000 in 2005
Total	≈424,000

Note.—Due to lack of applicability to the illegal population, this analysis does not include more obscure temporary visa categories, such as foreign diplomats, religious workers, athletes, entertainers, "treaty traders or investors," press, etc. All told, these additional categories would total about 100,000 additional visas.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that Senator FRIST and Senator MCCONNELL be added as cosponsors to S. 1815, the Strengthening American Citizenship Act.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Mr. President, on behalf of the leader, I ask consent that at 3 p.m. today, the Senate proceed to vote in relation to the Frist amendment at the desk related to a study on deaths on the border; provided further that no amendments be in order prior to that vote.

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

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the time before the vote be allocated as follows: the next 30 minutes beginning at 1:20 be under the control of the Democratic leader or his designee; the following 30 minutes be under the majority control; the next 30 minutes be under the control of the Democratic side; and finally that the remaining time before the vote be equally divided between the two sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, the Senate is now engaged in a spirited debate about reforming our immigration policy. I rise today to share my perspectives and my priorities.

Let's remember, though, that this is not just about immigration; it is about the type of country we want to be, what we stand for, and what type of future we all want to build. It is easy to get caught up in the specifics of one policy or another, but I encourage my colleagues to not lose sight of the bigger picture. This debate touches nearly every aspect of American life, from our economy to security, from our classrooms to our workplaces.

I know there is a lot of pressure to do something about immigration, especially in an election year, but if we do the wrong thing, it will have a painful effect on millions of families, on our economy, and on our future for generations to come. Let's take the time to do it right. Perhaps the biggest mistake we could make is to think that addressing enforcement alone will create the changes we want to see.

I approach this debate with a clear understanding of what is at stake, frankly, with some skepticism that Congress can achieve this delicate balance in a heated political environment. But I will keep pushing for the right policies. These policies are based on my own personal experiences, on people who have shared their life experiences with me, and on the unique perspective Washington State provides.

Washington State does have a lot at stake in this debate over immigration reform. I have led discussions around my State with key stakeholders who have experiences in areas such as border security, labor needs, agriculture, education, and housing that have all helped form my perspective.

First of all, Washington State is a border State. We know the dangers of an insecure border. For years, I have fought Federal policies that steered critical resources away from the northern border to the southern border. Year after year, I have fought budgets that were biased against the needs at our northern border. My border communities have struggled with inadequate staff, equipment, and facilities. Tragically, it took the September 11 attacks to finally get the Federal Government to listen to what we had been saying all along: you cannot keep America secure if you shortchange the northern border.

Since then, we have made some progress. I have worked with Chairman GREGG and others to secure the money to triple the number of agents along our northern border. I helped to fund the northern border air wing that is in my State to patrol our skies and to provide enforcement and surveillance. I should note that we still need to extend their patrol hours beyond just 40 hours a week.

We have made progress but not nearly enough. Just this week, we learned that Federal investigators were able to smuggle parts for a dirty bomb across the northern border into Washington State. That is unacceptable.

As we have increased enforcement at the northern border, new challenges have emerged. Federal agents are arresting more people for smuggling and other crimes, but the Feds are just handing those suspects over to local officials for holding and prosecution. As a result, communities like Whatcom County on the foreign border are struggling to deal with the huge new burden of Federal prosecutions. Whatcom County is spending $2 million a year to process federally initiated cases. Whatcom County is not being reimbursed, but communities along the southern border are. That is not fair, and it is something I am working to correct.

Washington State understands the importance of border security. I believe any bill we pass has to treat the northern border fairly.

Our communities need help to combat the scourge of drugs and violence that accompany rampant smuggling operations. We cannot wait until a terrorist tries to move a dirty bomb across our northern border.

Washington State also has a great stake in how immigration reform affects one of our largest industries—agriculture. We rely on immigrants to harvest the crops that put food on our table and bring our State billions of dollars a year in economic activity. Last week in Moses Lake, WA, I heard personally from farmers and orcharders who had to leave fruit on the trees last season because they could not get enough help to pick it fast enough. This costs our farmers and our entire State economy.

Already, many farmers have told me that the 2005 season was the worst season they have had in trying to get the employees they needed. It is estimated that 700,000 undocumented workers are living in Washington State. That means Washington State has the highest per capita concentration of undocumented workers of any State in the Nation. We know how important laborers are for our economy.

Washington State public schools and universities are also impacted by our Nation's immigration policies. I hope we can all agree the children of immigrants deserve a decent education which builds our communities and our economy.

For years, I have worked to increase educational opportunities for all students living in this country. I am a proud supporter of the Dream Act, which helps make higher education more accessible to the children of immigrants. I have been proud to celebrate with young students through the Latino Educational Achievement Project and other organizations in my home State of Washington that break down barriers to education. Our educational policies have to ensure that immigrants and the children of immigrants are not denied the opportunity to share in the American dream.

Housing is another area that is connected to our immigration policy. Many communities in Washington State are struggling with the lack of affordable housing. That can mean families are trapped living in unsafe or substandard housing. We also have to address the housing challenges in agricultural communities. For several years, I have been working on a farmworker housing initiative to help address a tremendous shortage of safe and affordable housing for the people who work on our farms.

All of these experiences—the northern border, agriculture, education, labor needs, and housing—help inform me on my view on immigration policy. I believe from that, that we need a holistic approach.

Enforcement is important. Securing our borders is important, but if we leave out things such as education and job training, if we ignore the tools families need to rise above their circumstances and build a better life, we will be missing the big picture and we will be throwing away the ladders of success generations of Americans have relied on to make their families and, subsequently, our country stronger.

Comprehensive immigration reform should do seven things: it should improve enforcement; it should treat the northern border fairly; it should include a guest worker plan which includes a path to citizenship; it should provide a path forward so that people who are here have an opportunity to become citizens and realize the American dream; it should protect the rights of victims and refugees; it should not turn into criminals those compassionate souls who care for their wounds, teach their children, or feed their families; and finally, it should provide the resources to help families rise above their circumstances through education and training.

Let me take a minute to talk about each of these priorities.

First of all, we should improve our enforcement, and that means providing personnel, equipment, facilities, and resources to enforce our borders. In the wake of September 11, security at our borders and enforcement of our immigration rules are now more critical than ever. That is why I have pushed for years to hire more Border Patrol agents, deploy more resources along the border, including the northern border air wing, and to make sure we are using the latest technology to secure our Nation's borders. We must continue to make investments in securing our border and protecting ourselves from those who seek to do us harm.

Second, we have to treat the northern border fairly. We will not be shortchanged as we have in the past. If we are going to secure our borders, we cannot leave the northern border behind.

Third, immigration reform should include a guest worker plan to keep our economy moving forward. We have tremendous labor needs in our country, especially in labor-intensive fields such as agriculture. Our economy cannot survive without access to the workers we need. A responsible guest worker

program can help address our country's economic needs. As one farm leader in my State put it, we need reform, but we cannot commit economic suicide in the process.

I am cosponsor of the bipartisan AgJOBS bill which allows current workers to retain citizenship and which would set up a guest worker program that will really work. I hope we can follow a similar path. But whatever we do, we can no longer tolerate a system that expects our farmers to be experts in document verification. Our farmers should not be turned into criminals.

One option is to provide a way to electronically verify someone's identity. If we pursue that approach, we must not put a new financial burden on our farmers who are just trying to follow the law and do the right thing.

We have to establish a realistic system that allows employers to legally hire the help they need. And agriculture is not the only sector that would be affected by these proposals. It would also affect the construction and hospitality industries as well.

Fourth, immigration reform should provide hope and a path forward for a resident to be able to earn—earn—legal status.

Fifth, any legislation must protect the rights of victims and refugees to access the courts. Over the years, we have worked to protect victims and refugees, but if we enact an expedited removal process, we could undo all that work and cause tremendous human pain. We have worked very hard through the Violence Against Women Act to protect victims no matter where they come from or what their legal status is. The act allows victims of domestic violence to petition to stay in the United States. We should keep those humane protections in place.

Sixth, we should not make felons of those who seek to help the most vulnerable. Churches and other support groups should not be threatened with jail time for showing compassion toward anyone who needs help. It is not the job of hospital workers or teachers or priests to enforce our immigration laws, nor should it be. We should not block any emergency room doors, any classroom, or any police station to the needs of all of our residents.

Finally, we need to invest in the things that help immigrants and all Americans rise above their circumstances. I am concerned that many important issues are being left out of this debate we are now having. As leaders, it is our duty to protect and foster the American dream for all of our citizens as well as those on the path to citizenship.

We need to invest in primary and secondary education. All of our children should have the opportunity to become more successful than their parents. We need to invest in adult education and literacy programs. Immigrants on the road to earned adjustment should have the opportunity to improve themselves and learn the English language.

We also need to invest in workforce training. All of our citizens should have the opportunity to increase their skills and earning power and achieve a greater share of the American dream.

We need to invest in health care and secondary education if this path to earned citizenship will truly allow all of our neighbors to participate in the American dream, while also allowing our economy to grow.

We are not talking about charity for someone else. We are talking about investments that help every American family achieve their dreams.

Throughout our history, the United States has been a beacon of hope for people throughout the world. That light shines as bright today as it ever has. As we work here to reform our immigration policy, let's make sure our actions reflect our security, our economy, and the opportunity America has offered generations of immigrants. Let's take the time to get this right. Our country's future depends on it.

Thank you, Mr. President. I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ALLARD. Mr. President, I ask unanimous consent to speak for 5 minutes under Republican time.

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

Mr. ALLARD. Mr. President, today, I intend to offer an amendment to the immigration reform bill. This amendment aims to bolster our efforts to stop the illegal flow of methamphetamine across our borders.

Colorado, as well as the Nation, must deal with the epidemic of methamphetamine. In just 10 years, methamphetamine has become America's worst drug problem, worse than marijuana, cocaine, or heroin.

In the Senate, we have passed comprehensive legislation to combat methamphetamine. However, I believe this initiative can be improved by concentrating our efforts to expedite an effective plan to tackle methamphetamine that is smuggled across our borders.

Methamphetamine is a dangerous drug. The Mesa County Meth Task Force, in my home State, notes that methamphetamine is highly addictive, cheap, widely available, easier to make than LSD, and therefore more attractive to users. The number of users is increasing, and more methamphetamine is starting to come across our borders and into our States.

Colorado has been particularly hard hit by methamphetamine trafficking. Numerous local task forces, police departments, as well as the Drug Enforcement Agency, report that the availability of crystal methamphetamine has increased throughout Colorado. In recent years, Colorado has seen a significant increase in the amount of methamphetamine, cocaine, and marijuana being imported, stored, and distributed in the area. The use and abuse of this drug has spread because of the availability of high-quality imported methamphetamine.

According to the DEA, the Drug Enforcement Agency, over half of the methamphetamine available in Colorado is manufactured abroad and trafficked across our borders illegally. The Colorado Drug Investigators Association agrees, stating that most of the methamphetamine available in Colorado is produced abroad or comes from large-scale laboratories in California. In recent years, the potency of methamphetamine produced in other countries has risen dramatically.

The Department of Justice cites that domestic methamphetamine production is decreasing. National Clandestine Laboratory Seizure System numbers demonstrate that the number of reported methamphetamine laboratory seizures is on the decline. In fact, Colorado lab seizures from 2003 to 2004 fell by more than half.

However, methamphetamine availability within our borders is not likely to decline because of increased production outside of U.S. borders. Production abroad has offset recent declines in domestic production. Foreign sources of methamphetamine appear to be increasing domestic supplies.

According to estimates from the DEA, an alarming two-thirds of the methamphetamine used in the United States comes from larger labs, increasingly abroad, while only one-third of the methamphetamine consumed in the country comes from the small laboratories.

The methamphetamine production abroad is dependent on a steady supply of ingredients from other foreign sources. These producers are able to secure large quantities of ephedrine or pseudoephedrine from sources in other countries which export massive quantities of ephedrine and pseudoephedrine and increase means of production. These foreign laboratories are often termed as ''super labs.'' They are able to produce more than 10 pounds a day of highly pure methamphetamine. These labs then traffic their product into our country.

According to the National Drug Intelligence Center, the transportation of methamphetamine from abroad is increasing, as evidenced by increasing seizures along our borders. The amount of methamphetamine seized at or between U.S. border ports of entry increased more than 75 percent overall from 2002 to 2004. The sharp increase in methamphetamine seizures at or between U.S. border ports of entry reflects increased methamphetamine production abroad.

Methamphetamine has been a leading drug threat in Western States since the

early 1990s. The studies from the Department of Justice show that the trafficking and abuse of this drug have gradually expanded eastward with time. Methamphetamine now impacts every region of the country and is increasingly prevalent within the Northeast region. Without a sensible and timely effort, methamphetamine trafficking will continue to spread eastward and eventually encompass the entire United States.

Colorado is not just a hot spot for the distribution of methamphetamine. Often drug traffickers pass through Colorado on their way to other States. The majority of the methamphetamine that is distributed outside the Rocky Mountain region is destined for States generally to the north and east, such as Montana, the Dakotas, Nebraska, and as far away as Illinois.

The trafficking of methamphetamine across our country threatens the safety of communities. As distribution spreads, addiction will grow. Methamphetamine addicts are increasingly involved in violent crimes. The Mesa County Meth Task Force notes that methamphetamine-related crime ranges from auto theft, burglary, to murder. Methamphetamine users are unreasonable, erratic, and capable of causing great harm not only to themselves but others. We simply must protect our families and communities from violence.

We must recognize the immediacy of this issue and be able to curb the flow of methamphetamine into the United States. It is important that we protect U.S. borders to ensure national security and the safety of our communities. Therefore, I propose that we speed up our efforts to curb the flow of methamphetamine through our borders. We must have a formal plan that outlines the diplomatic, law enforcement, and other procedures the Federal Government will implement to reduce the amount of methamphetamine being trafficked in the United States.

The main thrust of my amendment takes a swift approach to fulfilling requirements for the international regulation of precursor chemicals as outlined in the PATRIOT Act. We must press upon the Secretary of State, the Attorney General, and the Secretary of the Department of Homeland Security the immediate need for a firm plan of action. It is imperative that such a plan include, at a minimum, a specific timeline to reduce the inflow of methamphetamine into the United States.

There must be a tough standard for keeping excessive amounts of pseudoephedrine products out of the hands of methamphetamine traffickers. We must outline a specific plan to engage the top five exporters of methamphetamine precursor chemicals, such as pseudoephedrine, ephedrine, and phenylpropanolamine.

Also, we must be prepared to be able to address funding needs to secure our borders, ports of entry, and other methamphetamine-trafficking windows that are currently being exploited by drug traffickers. These controls are critical to help law enforcement officials eliminate the flow of methamphetamine into our communities. This plan calls for a detailed funding request that outlines what, if any, additional appropriations are needed to secure our borders.

My amendment requires the administration to deliver a plan within 90 days of the enactment of this act. This amendment also calls for a Government Accountability Office report to ensure that our Government is fulfilling its obligation to combat methamphetamine.

Our Nation has been hard hit by the illegal trafficking of methamphetamine across U.S. soil. This is a national issue which is growing at a rate that is outpacing our law enforcement officials. Through our work on the Combat Meth Act, we have provided them with the necessities to fight methamphetamine. Now we must be vigilant and establish a responsive plan of action.

In conclusion, I thank State Representative Josh Penry and State Senator Ken Kester from Colorado for working with me on this issue and for their efforts to combat the horrific issue of methamphetamine in Colorado.

I intend to offer this amendment later today. I ask my colleagues to join me in my effort to stop the illegal trafficking of methamphetamine and all dangerous drugs at the border.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, there is an order of speaking locked in. I believe I am entitled to speak in about 5 minutes. Is it appropriate for me to begin at this point?

The PRESIDING OFFICER. Without objection, the Senator may proceed.

Mr. KYL. I thank the Chair.

I rise to address the starting point of any discussion of comprehensive immigration reform, which is security at the border, and then move on to the other significant security aspects of this issue. I believe we need comprehensive immigration reform, which essentially boils down to four things: security at the border; security in the interior of the country, including at the workplace; a temporary worker program to accommodate our employment needs; and a way to deal with the people who are here illegally today. All of those issues need to be addressed. Ideally they should be addressed at the same time, but almost everyone agrees that the starting point is security at the border. What I wish to do today is to describe some of the reasons why it is so important for us to focus on that and then to discuss the underlying legislation which significantly deals with that problem.

As a result of including provisions of the majority leader's bill and provisions of the Cornyn-Kyl legislation in the Judiciary Committee's base bill with respect to border security, we have a good start on getting a handle on border security. It is only a start, and it takes years to build out the fencing, to build up the Border Patrol, to add the new aircraft, the UAVs, to install the sensors and cameras, to build the detention space and all the other things that have to be done in a mosaic to gain control of the border. This bill offers a good next step in that regard.

I thank the chairman of the Budget Committee, JUDD GREGG, who as chairman of the subcommittee on Appropriations has ensured over the last several months that there is additional funding available for more Border Patrol agents, more infrastructure at the border and the like. We have actually already started on this problem, but this legislation takes the next step in a significant way.

There are a lot of things going on on the border right now that I don't think Americans who are not from a border State would appreciate. I wish to start by talking about those.

While it is true that part of the issue before us is the millions of people who have crossed our borders illegally to come here to work, that is only part of the story. Today the border is a violent, crime-prone environmental disaster with people in jeopardy and even our military suffering as a result of illegal immigration. Let me explain.

Because we have added more Border Patrol, we are beginning to contest territory that the smugglers used to call their own. They are fighting back. The U.S. Attorney from Arizona testified before my Terrorism and Homeland Security Subcommittee about a month ago that assaults at the border were up 108 percent over last year. Those assaults include not just rock throwing, which bashes people's heads in, but also assaults with weapons, including automatic weapons. I will get later the number of people who have been killed as a result of these assaults. I don't have that with me. But we have had people die in the line of duty trying to protect our borders from this increased violence.

Now criminals are coming into our country by horrendous numbers. Last year something like 150,000 criminals entered the country. These are not petty criminals. These are murderers and rapists and child molesters and drug dealers of the worst kind. Now about 10 percent—in fact, somewhere even between 10 and 15 percent—of the people apprehended at the border have significant criminal records.

Think about this for a moment: If the usual rule of thumb is that at least three people are able to cross the border and do so successfully for every one who is apprehended, think of the number of violent, vile criminals who are entering our country because we have failed to secure the border. This is a serious problem for the United States. It is estimated now that in some places over half of the population of prisons is illegal immigrants.

In addition to the crime that is occurring at the border and the criminals coming across the border, it is also true that the people who are illegally coming to the United States for a better life are prey to the coyotes and other criminal elements. They are raped, robbed, beaten, held hostage for ransom. They represent value that can be collected from their relatives back home. They are mistreated in the most horrible way. Many die because of the way they are being transported or not transported. We are all aware of the increasing number of deaths, most of which occur in my State and which were a record number last year.

There is also huge environmental degradation. To look at the Arizona desert from the air is to want to cry. Thousands of paths where thousands—indeed, millions—of illegal immigrants have trod crisscross the border. It was pristine, but it takes centuries for this very fragile ecosystem to revive after it has been trampled. Vehicles coming across by the hundreds, sometimes left behind because they get stuck in the sand or ran out of gas, but the trails can be seen all over. Tons and tons of trash left behind, fires started, vegetation trampled. It is an ecological disaster.

I mentioned the military. Because the Barry Goldwater Gunnery Range is located on the border with Mexico and is one of the largest areas for our pilots to train regardless of the service, that area is of great value to the United States for our defense preparedness. Two years ago—I don't have the numbers from last year—there were something like 400 to 500 missions that had to be aborted because pilots had their planes gassed up, ready to go, with the bombs ready, or maybe had even taken off, but when they got close to the range, the radio call came back that there are illegal immigrants in the area. Turn back. Don't drop your bombs. This is an area where strafing and bombing occurs on a regular basis. The Marine Corps is responsible for the western half of this gunnery range. They go out on a weekly basis and try to clear the area of illegal immigrants. But frequently, after they have cleared the area and radioed that it is OK for the mission to come in, they find there is somebody there and they have to abort. There were hundreds of flying hours that were lost 2 years ago and I am sure last year as a result of this phenomenon. Military training is being sacrificed.

The same thing is occurring on the proving ground, the Yuma proving ground, which is a pathway for illegal immigration. The point is, there are a lot of reasons to control our border beyond dealing with the problem of illegal immigrants. That is a huge problem. With at least half of the illegal immigrants coming through my State on an annual basis, it represents particularly a huge problem for my State. But I haven't mentioned one of the key elements, and that has to do with securing our borders as a sovereign country, particularly in a time where there is a potential terrorist threat. It is not hard to transport contraband material across our border. The drug war is going on full blast on our borders. Methamphetamine is not made or manufactured so much in at least our State, and I understand other States now, because it is easier to bring it across the border where it is manufactured by the ton in Mexico and then brought over in backpacks, one backpack of value anywhere from a quarter to a half million dollars.

These kinds of things are coming across the border every day. If they can come across, then so can a backpack full of material for a radiological weapon, for example, or a biological weapon, and so can a terrorist. We now have 165,000 other-than-Mexican illegal immigrants apprehended. Remember the rule of thumb that for every one you apprehend, perhaps at least three more are not apprehended. These are people from countries other than Mexico. So when they are apprehended, they can't be returned to Mexico as we do with Mexican citizens. They have to be processed and put on an airplane back to their country of origin. I was told by the Director of Homeland Security that there are over 39,000 Chinese citizens in the United States, having come here illegally, who need to be returned but that only a few hundred are being returned every year. In other words, the problem is getting bigger and bigger every year.

There are not enough detention spaces for all of these people. As a result, they are released on their own recognizance. Do they show up when they are asked to? No, of course not. These other-than-Mexican illegal immigrants are caught and released, allowed to meld into our society. A large number of them are criminals. Many of them come from so-called countries of interest, meaning countries from which terrorists come. Yet we can't hold them and return them because we don't have the detention space to hold them and their countries won't take them back quickly, if at all. Some countries won't even take them back.

The Department of Homeland Security has announced a plan to end catch and release, but that is only possible when we have the detention beds to put them in, pending their departure. There is money in this bill for that purpose, but not enough. The point is, it will take years.

I hope I am beginning to create some picture of the magnitude of this problem beyond just the problem of illegal immigrants wishing to come here for a better life. This issue is frequently portrayed as nothing but that. It is far more than that, far more complicated, far more dangerous, far more destructive. We have to get control of our borders. If we don't, we are not a sovereign nation, we don't have control over our own destiny, and there are threats to our existence far beyond whatever problems illegal immigrants who want to work here may create.

There is another aspect of enforcement that has received far too little attention. We talked about enforcement at the border but also enforcement in the interior. Illegal immigrants know if they get a few miles north of the border, they are home free. Border Patrol doesn't even operate 60 miles north of the border for the most part. As a result, there is no or very little enforcement in the interior of the country. There may be the occasional border checkpoint, but they are usually much closer to the border, the occasional Border Patrol officer in an airport to try to discourage illegal immigrants from transporting themselves by airline, which they have done for years, but very little enforcement.

There is essentially no enforcement of the law against hiring illegal immigrants, a law that was written several years ago which has essentially never been enforced. The reason is because, A, it is not enforceable and, B, we don't have the will to enforce it. Employers are told they are supposed to check documents. The documents are all easily forged. Everybody knows that. The employer has a good idea when he is hiring the individual that that individual is an illegal immigrant, probably can't speak English and clearly comes from another country. And yet the employer can't do anything about it because the driver's license or passport or Social Security card looks like the one you and I have. The counterfeiters are very good at this.

So everybody pretends the law can be enforced when they know it can't. The Government doesn't do anything about it, the employers don't do anything about it. America sees that and Americans say: What happens to a country that isn't enforcing its laws and apparently doesn't have the will to do so? And, importantly, why should we believe that you in the Senate can create a workable, comprehensive immigration program with temporary workers and a way to deal with the illegal immigrants who are here today? Why should we believe you will be able to do that and enforce it when you haven't enforced the ones that are on the books today?

We are all familiar with the 1986 amnesty, 3 million people, but then we were going to enforce the law so it would never occur again. In 1996, once again, we provided for enforcement at the workplace, as I described it. It didn't happen. It is kind of like Lucy and the football. After about three times, Charlie Brown ought to start getting the idea that when he goes up to kick the football, Lucy is going to pull it away from him. That is the way the American people look at us. They ask: When are you going to assure us this will be done?

I dare say neither the administration, the previous administration or the current one, or the Congress has given the American people much to peg confidence on.

The administrations have not asked for enough money. The Congress has added money to the situation but has still not added enough. Our law enforcement doesn't seem to be willing to go after the employers who are clearly violating the law. Indeed, it would be hard because, in a sense, they are being precluded from asking questions about the documents that are given to them.

This all points the way toward the second and equally critical part of the legislation we are going to have to deal with. If we don't enforce the law in the interior, this whole exercise is a fraud, it is a deceit, it will not work, and the American people will react very negatively, I predict.

Now, it is relatively simple to make this work if we have the willpower to do it. You have to have a verification system that is pegged to a valid database, electronically verified and audited. The Social Security system has numbers that are assigned to everybody, but it is full of bad numbers today. It needs to be cleaned up. I believe we will have an amendment that will provide for the cleaning up of the database, for its maintenance in a proper way, and for an employer verification system that depends upon a Social Security number being typed in electronically and sent back to the headquarters in Washington, or wherever it is, verifying whether the number is valid.

That is half of the situation. OK. The number you have just been given is a valid Social Security number, it doesn't appear to be being used by somebody else, it has been validly issued by somebody with the name of John Doe, and the person standing in front of you claims to be John Doe. How do you know it is John Doe? I can go to an employer and rattle off a number and put it into the system, and he says: That is a valid number; what is your name again? I happen to know the number because I saw the card or asked my neighbor his name, or whatever the situation. Well, you have to have a way of tying the person in front of you to the number. This will also have that kind of system. They are working right now on exactly what kind of number to attach to that to make that work. Eventually, the REAL ID Act, which is based upon good documents, will connect the individual standing before you to the number, and therefore you will be able to validate identity in that way.

This is somewhat costly. It will take some period of time to put into place. Once it is put into place, it can operate efficiently. Employers will be mandated to use it. But it will be easy to use. So we should not be asking employers to be the cops here. It is an impossible job for them. If the Government has determined in advance who is legally employable and who is not, then the employer doesn't have to worry about it. All he or she has to worry about is when the number electronically comes back and it says ''valid,'' you are home free. If it says ''invalid number,'' don't hire the person or you will be in big trouble.

This legislation will provide a way to clear up any problems, so if for some reason the number doesn't compute, and you say: That is really me and that is my number, you can straighten that out. The bottom line is that if we don't have a valid verification of employment, whether the individual is verified as a citizen, a temporary worker, a green card holder, or whatever the status is, if you are validly able to get employed, great. If you are not, then you won't be employed. Unless we have that kind of system, this entire thing breaks down.

In the legislation Senator CORNYN and I developed, this is a critical component, and it answers one of the questions that is frequently asked: How do you know people will eventually come out of the shadows and participate in a temporary worker program—or seek a green card, in any event—that they will eventually leave the United States in an illegal status and will come back in a legal status? The answer is: With a good validation of employment, verification of employment eligibility system, nobody is going to be able to get a job illegally.

So within a couple of years, it is not going to be possible to be in the United States, if you want to work, and be illegal. You are going to have to get legal and come in on a temporary worker status, if that is what you want to do. That is part of the answer as to what will cause people to comply with the law. They are not going to be able to get a job if they don't.

It is theoretically possible that an individual could go live with somebody else and remain in the shadows; that possibility could exist. Although, as the documents become better, it is going to become harder to do anything, in terms of purchasing or bank transactions or driver's licenses and the like, if you don't have valid documentation for your status in the United States.

These are the two key things which we refer to when we talk about enforcement of the law: securing the border and securing the interior, including the workplace. These two factors must be a part of any legislation we pass. The House focused only on the first part of that, primarily. There are others who think we should do that first and wait until we do the rest of the bill. I don't believe that is a good idea. We need to try to do all of these things together. But I support the idea that until these systems are locked in, until the American people can see that we have been serious about it, that a year or two has gone by and we have funded them and the administration is enforcing them, some of the rights that attach under various bills should not finally attach. In other words, let's make sure we are doing these things before future rights to citizenship or something like that come into play.

What do Americans think about this issue of illegal immigration, and what would they support in terms of what I have been talking about? This is according to a variety of surveys.

Time magazine, earlier this year, said 63 percent believe illegal immigration is an extremely or very serious problem. Another one says they see immigration first as a security problem, then an economic issue, and finally a civil rights/humanitarian issue. Again, the Time poll says they believe that illegal immigrants, overall, hurt the economy, 64 to 26 percent.

In a Quinnipiac poll, in February, they opposed allowing illegal immigrants to obtain driver's licenses, 72 to 25 percent.

In a New Models poll, 58 percent to 37 percent say they would like to see military troops be used for border security.

The American people want serious action. I believe that illustrates how concerned they are that we have not been able to control the borders so far.

They favor a proposal to build a 2,000-mile security fence by a 51-to-37 percent margin. That is a Fox News/Opinion Dynamics poll.

I don't think it is realistic to put a fence along the entire border. What you need is troops on the ground and fences. You can put up a fence, but if nobody checks it for 3 or 4 days, they can cut a hole in it and come through. You have to have boots on the ground to control the territory, as we have seen in Iraq. We are talking about controlling our own territory. Fences are a key part of that, but so are people—Border Patrol agents who can continually patrol and make sure the fence is doing its job.

Again, from the Quinnipiac University poll in February of this year, they support requiring proof of legal residency to obtain Government benefits by an 84 percent to 14 percent margin.

There are other polls. Let me cite a couple. There is a Gallup poll of March 27, just recently, where 80 percent of the public wants the Federal Government to get tougher on illegal immigration; 62 percent oppose making it easier for illegals to become citizens; 72 percent don't even want illegals to be permitted to have driver's licenses.

A Time Magazine poll found that 75 percent favor ''major penalties'' on employers of illegal immigrants.

An NBC/Wall Street Journal poll: 59 percent oppose a guest worker proposal.

I might say, there are different numbers on that. I think part of that depends upon how you ask the question. Nonetheless, there is an extreme amount of cynicism there.

An IQ Research poll done on March 10 found that 92 percent are saying securing the U.S. border should be a top priority of the White House and the Congress.

So the American people are pretty clear on this issue. They want us to act, and they want us to act to enforce the law.

We are going to be talking about a lot of other things here soon.

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

Mr. KYL. Mr. President, I ask unanimous consent for another 2 minutes.

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

Mr. KYL. Mr. President, we will have more to say about a lot of other aspects of the pending legislation and what we need to do. I wanted to take this time at least to lay the groundwork for the discussion of why it is important to enforce the law.

The final point I will say is this: We are, it is often said, a nation of immigrants but a nation of laws. What do we mean by that? We mean that when we go to an intersection and the light is green, what do we know? We know we can drive on through because the people who have the red light will obey the law. We do that with everything in our society. We have contracts with each other that are very loose because we have a rule of law that if anything goes wrong, we have a way of resolving that legally. Everything we do, we do because of trust with each other based upon the rule of law. That is the way it works in our society. When everybody obeys the law, we can get along great. Once people disobey the law, bad things happen. You need more and more laws and enforcement, and you get into a situation like we are with illegal immigration. That is why we have to get back to the rule of law. People in America have to have confidence in their Government, in the businesses, in their fellow citizens, and they will if they know everybody is operating within the rule of law.

What happens if they begin to see that nobody appears to be adhering to the law? Remember what Mayor Rudy Giuliani proved in New York City: When little things begin to happen that are violations of law, soon it is bigger and more and more, and pretty soon you have a lawless society. If people understand that even the smallest things have to be within the rule of law, then you have a much better society.

We have to get back to the rule of law with respect to our employment practices, the internal operation in our country, and the security of our borders for all the reasons I have indicated.

I look forward to discussing some of the other significant issues relative to this entire issue. I hope we can agree that border security and enforcement of the law at the workplace are critical elements of any legislation we adopt.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. 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. KYL. Mr. President, pending somebody else wishing to speak, I can quote for the record about 3 statistics I think are meaningful with respect to this debate.

I did not give a precise number on the number of illegal immigrants who died last year while crossing the United States-Mexican border. According to the most recent Border Patrol statistics, the number who died in 2005 was 473. That is the highest number since the Border Patrol began tracking such deaths since 1999.

Another statistic is that last year, the U.S. Border Patrol apprehended 1.2 million illegal immigrants, which is roughly 1 person every 30 seconds. According to the Pew Hispanic Center, the estimate is that there are about 12 million illegal immigrants in the United States today, and about 56 percent of them are Mexican citizens.

Another statistic: The busiest U.S. Border Patrol station right now is the Yuma Border Patrol station. Last year, 138,460 immigrants were caught coming through that station.

I see my colleague from California. The Senator from California was very concerned about the lawlessness right near San Diego and the environmental degradation, crime on both sides of the border, and illegal immigration through there, as well as drug smuggling. As a result, as we all know, a fence was constructed in that area.

It is interesting, the fence clearly helped to prevent crossings. Right where the fence is, I am told, nobody has crossed illegally, and in that sector, the number of people apprehended declined from a peak in 1986 of 629,650—just in that one area, which is phenomenal to me; that is astounding—from almost 630,000 just in the San Diego sector, it is now down last year to 126,000 illegal immigrants were caught near San Diego. That is still a lot of people. We can see the fencing in that area has clearly had a significant impact.

There are other statistics, but if the Senator from California is ready, I will withhold.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, shortly the Senate is going to be confronted with a vote on two bills, one of them being the leader's bill which deals with enforcement on the border, and the other the Judiciary Committee bill which essentially incorporates provisions of the McCain-Kennedy bill into a broad and comprehensive bill which will, I believe, be before the Senate for discussion and amendment.

The bill approved by the Judiciary Committee is a bipartisan bill. It had a 12-to-6 vote in the committee. It is the first step forward in a very difficult and consequential process to address what has become one of the most contentious issues in American life.

If this bill is approved by the full Senate, it will then have to go to a conference committee and be reconciled against another bill, namely the House bill, which is very onerous in many of its provisions.

The reconciliation of these two bills is going to be extraordinarily difficult to achieve, and it remains uncertain whether any bill can be enacted into law in this current congressional session.

Any legislation approved by Congress, I think, has to take into consideration the reality of today's immigration world in America. It is very different from the 1990s, it is very different from the 1980s, and it is very different from the 1970s. There are very strongly held views on both sides. Most, though, of what is attempted by Federal agencies responsible for the administration of immigration services today and responsible for the protection of our borders has more often than not failed, and we have to deal with that failure.

Employer sanctions, which are the seed of current immigration laws, have failed. Border control is spotty at best. Naturalization takes years. Detention facilities are inadequate. And despite our attempts to gain operational control of our border and to secure the interior of the United States so that everyone plays by the rules, the Government has essentially failed.

We now have 10 million to 12 million undocumented people living in the United States. They have come here illegally. They live furtively. Many of them have been here for 20 to 30 years. I know many. They own their homes. They pay taxes. Their children were born in this country and educated in this country. This is the only home they know. They want to live by the law, but they have no way currently to live by the law.

Employer sanctions, I mentioned, do not and, I believe, in our global economy, will not work. That is evidenced by the fact that in 2004, only 46 employers in the United States were criminally convicted for employer sanctions out of 3,258 cases initiated.

I have watched in California. On the few occasions where immigration officials have gone to agricultural worksites and arrested employers, the public reaction has been entirely negative.

Both you and I know, Mr. President, that a law is only as good as the ability to enforce it. There is virtually today no ability to enforce employer sanctions in the United States of America. Therefore, a more punitive immigration philosophy that is based and dependent upon employer sanctions as working doesn't work and clearly creates a situation whereby there is disorganized chaos in the immigration world.

Another reason for this is our borders are a sieve, porous through and through. The Senator from Arizona correctly mentioned there are 14 miles on the California border with Mexico where there is a two-layer fence. It is an immigration border control process

known as Operation Gatekeeper. It was very controversial when put into play, but it works. And he is correct, immigrants coming in illegally in that corridor have been deterred.

But what has happened is, it has simply pushed them east into unfenced portions of the border, and those portions of the border where the desert and the heat wreak considerable destruction upon anybody crossing.

A concern with porous borders has also brought attention to a classification of aliens known as ''other than Mexicans.'' In 2005, Border Patrol agents apprehended 165,175 ''other than Mexicans'' at the border, 155,000 of them on the southern border.

The concern here is that many of these people are increasingly from terrorist-supporting countries, and that presents a real potential national security threat to our country.

We continue to have a catch-and-release policy with respect to this limited category of people, but we don't have sufficient detention facilities. Consequently, they are released on their own recognizance pending a hearing. They are expected to show up at the hearing. More often than not, they do not show up. They simply disappear into the fabric of America, gone for all time.

I can go on and on, but I think this gives an accurate view of what has become an extraordinarily dysfunctional immigration system, and it has also made me realize that while we need strong border enforcement, it alone is not the only solution to the problem of illegal immigration.

The House bill, which focuses only on enforcement and criminalization of undocumented aliens, isn't the solution. We need to be much more realistic and comprehensive.

I see the Democratic leader on the floor, and I would be happy to cease and desist for the moment if he wishes to speak.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Through the Chair, I know the Senator from California is a member of the committee, and I certainly don't want to interrupt her statement. I have a statement to give, and I need to do that sometime. I am wondering how much longer the Senator is going to speak?

Mrs. FEINSTEIN. Probably about 15 minutes.

Mr. REID. What I will try to do is come back when the Senator has finished her statement.

Mrs. FEINSTEIN. Mr. President, I thank the Senator very much. That is very generous of him.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, the Senate Judiciary Committee passed a bill, and I must tell you, I regret the way it was done. It was a kind of forced march, hour after hour of amendments on a bill that is very complicated, that I believe has actually come to the floor somewhat prematurely. I don't believe there is yet a consensus in this body, and I hope the debate that takes place can be a respectful debate so Members will feel free to open their minds and then to change them if the facts warrant that.

But this bill is a beginning. It seeks to address the overall problem in a much more comprehensive and practical way.

First with regard to border enforcement. The bill doubles the number of Border Patrol agents. It adds 12,000 over 5 years. Senator KYL and I had testimony in the Terrorism and Technology Subcommittee from the head of Border Patrol that today there are 11,300 Border Patrol agents. This more than doubles that number over the next 5 years.

It also would add an additional 2,500 new ports of entry inspectors in this same period so that the ports of entry are strengthened and legal immigration is able to be handled in a more prompt manner.

It criminalizes the act of constructing or financing a tunnel or subterranean passage across an international border into the United States. Most people don't know this, but this has become a real problem. There are 40 such tunnels that have been built since 9/11, and the great bulk of them are on the southern border. Large-scale smuggling of drugs, weapons, and immigrants takes place today through these tunnels.

I recently visited a tunnel running from San Diego to Tijuana, and I was struck by the inordinate sophistication of the tunnel. It was a half mile long. It went 60 to 80 feet deep, 8 feet tall. It had a concrete floor. It was wired for electricity. It had drainage. At one end, 300 pounds of marijuana were found, and at the other end, 300 pounds of marijuana.

What was interesting is that the California entry into the tunnel was a very modern warehouse, a huge warehouse compartmented but empty and kept empty for a year. You went into one office, and there was a hatch in the floor. It looked much like the hatch which Saddam had secreted himself in. But when you lifted that hatch and you looked underground, you saw a very sophisticated tunnel. It went under other buildings all the way across the double fence into Mexico and up in Mexico in a building as well.

Today, interestingly enough, at this time, there is no law that makes building or financing such a tunnel a crime. A provision in this bill includes language from the Feinstein-Kyl Border Tunnel Prevention Act which would make the building or financing of a cross-border tunnel a crime punishable by up to 20 years.

This bill also authorizes additional unmanned aerial vehicles, modern cameras, sensors, and other new technologies to allow the Department of Homeland Security to work with the Department of Defense so the latter can carry out surveillance activities at the border to prevent illegal immigration. So this bill is very strong on border enforcement. But it doesn't just leave it there, as the majority leader's bill does. It says, that is only half the problem; you have to deal with the other half of the problem, and there is the rub. That is the difficult part, and that is the controversial part as well.

The bill we have from the Judiciary Committee seeks to remedy the very real needs of our economy which, as much as we might want to, cannot be ignored. Our global economy has changed the face of the American workforce. I am not going to comment on whether this is good or bad. In some cases, it is one or the other. In some cases, it is mixed. But the fact of the matter is the needs are different and the workforce is somewhat different.

Let me give you a large industry: Agriculture. There are about 1,600,000 workers in this country who work in agriculture. In my State, there are 566,000. I would hazard an informed guess that half of the 566,000 are here in undocumented status. I have had farmer after farmer, grower after grower tell me they cannot farm, they cannot grow without this workforce. I didn't believe it, so I got in touch with 58—we have 58 counties—58 welfare departments and asked them to post notices saying: Please, there are jobs in agriculture. Here is where to come. Here is to what expect. Guess what. Not a single person responded anywhere in the 58 counties of California.

That was pretty convincing evidence to me that Americans don't choose to do this work. It is the undocumented workforce who has been the mainstay of American agriculture, whether through the H–2A program coming cyclically or whether it is through a large contingent of undocumented workers who remain in this country year after year and do this work.

Under this program—and this was an amendment that I made after negotiations with Senator CRAIG who has been one of the Senate leaders on the agriculture jobs program—and I was very pleased to negotiate with him and very delighted to see that he really cared enough to spend the day Monday in the Judiciary Committee. Between us, and with the committee's help, we have worked out a program whereby an undocumented worker could apply for a blue card if that worker could demonstrate that he or she has worked in American agriculture for at least 150 workdays within the previous 2 years before December 31, 2005. After receiving blue cards, individuals who have then worked an additional period in American agriculture for 3 years, 150 workdays per year, or 100 workdays per year for 5 years, would be eligible for a green card. Their spouses could work, and their children could remain in the country with them.

What would be the result of this? The result is that American agriculture

would have a stable base of employment which is legal, which has the opportunity to bring people out of the shadows into the bright light of day, assume additional responsibilities, grow in the process, and raise their families. I think that is healthy for America, not unhealthy.

Also, we reform the current H–2A program, which is the agricultural guest worker program, which employs, I would say around 30,000 people and is used largely in the tobacco-producing States. The way this is reformed is it makes it easier for an employer to apply for workers through an attestation system, the paperwork is simpler, the housing requirements are changed to make it easier. In general, the bill updates the H–2A agricultural program.

Returning to the larger bill, I suppose the most contentious part is what should happen to the 12 million people who are living here in the shadows, undocumented. Many would say they are here illegally; they ought to go back. Well, they are not going to go back. They are going to remain living furtively, and they are going to remain in the shadows. And most of them work.

The question before this body is: Does that make sound public policy sense over a substantial period of time? These immigrants live furtively. They are subject to work abuse, exploitation, threats, and blackmail. This bill would provide them with an opportunity to come into the light of day. But it wouldn't be easy for them. It is not an amnesty. An amnesty is instant forgiveness with no conditions. There are conditions on this. They must pay a fine of $2,000, they must learn English, they must have paid all back taxes, and they must be evaluated as neither a criminal or a national security threat to this Nation.

Also, they would not go in front of anybody in the line. There are presently 3.3 million people waiting in other countries legally for green cards, and those people should and will be processed first. It is estimated it will take, believe it or not, up to 6 years to process 3.3 million. These workers, these undocumented 12 million would go at the end of that line, and then one by one, they would come through that line. If they have worked steadily for the 6-year period, if they can show they have paid all back taxes, if they have avoided any criminal convictions, if they have learned English in that time, they would be granted a green card. Therefore, they come out of a furtive lifestyle, hidden and in secret, living in fear that tomorrow they could or might be deported.

Over the years in the Senate, one of the things that we can do is put forward a private bill. If we see a family or an individual who we believe is an exceptional circumstance, we can try and get a private bill passed for them, and when we introduce the bill, their deportation is stayed. It is very hard to get a private bill through. Many Members don't do private bills. I met some of the families. I want to give you three cases that I think are eloquent testimony to what is happening amongst the 12 million.

Let me share with you a family. Their last name is Arreola. They live in Porterville, CA. I have filed a private immigration relief bill for them over 2 sessions. I didn't get the bill passed, but their deportation has been stayed. Mr. and Mrs. Arreola came to the United States from Mexico illegally in the 1980s to work in agriculture. They have five children, two brought to the United States as toddlers, and three born in the United States. They range from 8 years old today to 19, and they know no other home but this country.

Their eldest daughter, Nayely, is a bright, engaging student. I have met her and talked with her. She is the embodiment of the American dream and what can happen when we give children a chance to excel in a loving, nurturing environment. She was the first in her family to graduate from high school and the first to go to college. And on a full scholarship. She goes to Fresno Pacific University. Mrs. Arreola works as a produce packer and Mr. Arreola now has an appliance repair business. They have no criminal background. They own their home. They pay their taxes. For Nayely, this bill offers a glimmer of hope that her family, once and for all, can come out of the shadows. They don't have to have that daily fear of deportation. They have been here for 20 years. They are and will be legal, productive citizens.

One other example. Shigeru Yamada is a 21-year-old Japanese national living in Chula Vista, CA. He is facing removal from this country due to a tragic circumstance relating to the death of his mother. He entered the United States with his mother and two sisters in 1992 at the age of 10. He fled from an alcoholic father who had been physically abusive to his mother, the children, and even his own parents.

Tragically, Shigeru's mother was killed in a car crash in 1995, and he was orphaned at the age of 13. The death of his mother also served to impede the process for him to legalize his status. He could not legalize his status. At the time of her death, his family was living legally in the United States. His mother had acquired a student visa for herself and her children. Her death revoked his legal status in the United States.

In addition, his mother was also engaged to an American citizen at the time of her death. Had she survived, her son would have become an American citizen through this marriage. Instead, today, he is an illegal immigrant leading a model American life. He graduated with honors from Eastlake High School in 2000. He has earned a number of awards, including being named an ''Outstanding English Student'' his freshman year. He is an All-American Scholar, and he is earning the United States National Minority Leadership Award. He was vice president of the associated student body his senior year of high school. He is popular and he is trustworthy. He is an athlete. He was named the ''Most Inspirational Player of the Year'' in junior varsity baseball and football as well as varsity football. After graduating, he volunteered for 4 years to help coach the school's girl's softball team.

Sending him back to Japan today would be an enormous hardship. He doesn't speak the language. He is unaware of the Nation's cultural trends. He is American, raised here, educated here. He is one who is deserving, who would be helped by this legislation.

I see the minority leader, and I know he has a very busy agenda. Regretfully, I have a little bit more, so I will finish up.

Let me give a third example of the type and character of individuals that this bill would legalize. The Plascencias are Mexican nationals living in San Bruno, CA. They are undocumented. They face removal from the country due to the fact that they have received ineffective assistance of counsel. They have four children, all born in this country. The mother and father are subject to deportation; the children are not. They arrived in this country in 1988, and they have worked hard. Mrs. Plascencia studied English. She is now taking nursing classes at the College of San Mateo. She worked for 4 years in the oncology department of Kaiser Permanente Hospital, where she was a medical assistance.

Mr. Plascencia works at Vince's Shellfish Market. During the last 13 years he has worked his way up from part-time employee to his current supervisory position. He is now the foreman in charge of the packing department.

The Plascencia family has struggled to become legal residents for many years. Based on the advice of counsel, whom they were later forced to fire for gross incompetence, they applied for asylum. The application was denied, and they were placed in removal proceedings.

Their children—Christina, 13; Erika, 9; Alfredo, 7; and Daisy, 2—are entitled to remain. Their eldest daughter, Christina, is enrolled in Parkside Intermediate School in San Bruno, where she is an honor student. Erika and Alfredo are enrolled in Belle Air Elementary School. They are doing well. They have received praise from their teachers.

This family has worked hard to achieve the financial security their children now enjoy. This includes a home they purchased 3 years ago in San Bruno, CA. They own their car. They have medical insurance. And they have paid their taxes.

It is very clear to me and I think to a majority of Americans that this family has embraced the American dream and their continued presence in our country would do much to enhance the

values we hold dear. So I believe that by presenting a pathway for the 12 million to become legal, this bill offers the only realistic option. Think about it. How do you find 12 million people, and what do you do when you find them, if you do? If brought across the border, they return the next day. This is their home. This is their work. There are no adequate facilities to detain them. And most, today, have become a vital and necessary part of the American workforce—in agriculture, in restaurants, in hotels, in landscaping, and throughout our economy.

We need to build a border infrastructure that is modern and effective. We can do that. Operation Gatekeeper has shown irrefutably we can, in fact, enforce our borders if we have the will to do so and we are willing to spend the money to do so. But we also need to find an orderly way to allow those people who are already here, who are embedded in our communities and in our workforce, to be able to continue to remain. This bill does that.

I know this is tough for everybody because I know emotions run high and it is really hard to change your mind on this subject because there are so many conflicting pressures. But we have an opportunity to chart a new destiny for a lot of people. We have an opportunity to do something which has a chance to work, which is real, which meets the needs of real people out there, and which can stop the illegal infusion through our borders in the future if we act wisely, well, and effectively.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, a man—well, actually a boy—by the name of Israel Goldfarb came to the United States from Russia with his parents. He and his family were forced to leave Russia because of the pogroms that were going on. The economic situation for the Goldfarb family was chaotic, and no end was in sight for the problems the family faced. The little boy came to America with his parents and found a home with his parents in Minnesota, got an education, changed his name from Israel to Earl, and eventually came to California, where he met his wife. She was also of Lithuanian extraction. They married and had a very good life.

The best part of their life was their having one child. They had one child from that union. The reason that is so meaningful to me is that one child is my wife. My wife's father was a Russian immigrant, may he rest in peace. Of course, he and his lovely wife are gone. But for me, whenever I hear stories of immigrants and immigration, I think, but for this great country that opened its arms to this Jewish immigrant family, I wouldn't have had the opportunity to fall in love with my wife, Landra, and have five children of whom we are very proud. So immigration to me is more than just a word.

I am very happy that the Senate has started debate on immigration reform. Last week, 8 days ago, I traveled to the border, the California-Mexican border. It was an eye-opening trip, to say the least. I was able to see firsthand the problems created by our broken immigration laws. We need a serious strategy to address this crisis, and that is an understatement.

I am always so impressed with public servants. Public servants are more than Governors and Secretaries in the Cabinet and Senators. Public servants are the people who work in these buildings here in Washington and all over the country, these Federal offices. People who work in these agencies we have created all over America, I saw them firsthand in California a week ago Wednesday. Such dedication is hard for me to comprehend. Every day, these men and women put their lives on the line to enforce laws that we pass. I am very proud of the people who work on our borders. Again, we need a serious strategy to address the crisis that we have—and it is one.

Immigration reform is a matter of national security. We must know who is crossing our borders, when they cross our borders, who is living and working in our country. We need tough and smart enforcement at the border and throughout the country. And we need realistic immigration laws that bring immigrants out of the shadows, paying taxes, learning English, and contributing to our communities.

I strongly support enforcement, but I also know that enforcement alone cannot solve the problem. We have tried that. We tried it for the last many decades. We have tripled the number of Border Patrol agents over the last two decades. I am glad we have. I voted for every one of them. We increased immigration enforcement in the budget 10 times over. We need to do more, but during the same time we tripled the number of border agents and increased our immigration enforcement budget 10 times over, the probability of catching someone illegally crossing our borders has fallen from 32 percent to 5 percent.

My recent visit to the border convinces me all the more that enforcement alone is not the answer. I flew over miles of the border—San Diego going into Arizona. As I said, I have talked at length with the Border Patrol agents. They recognize better than anyone in this Chamber that fences don't keep people out. Near San Diego, we have a big metal fence. I don't know how tall it is, maybe 8 feet tall. And then we put up another chain link fence—tall, maybe 9 or 10 feet tall. The agents explained to me that people cut through, climb over, tunnel under. They showed me the new fence, a big, thick, chain link fence. They showed me the dents in the fence, the secondary fence, from people throwing ladders up and hooking them and climbing up over these.

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

Mr. REID. Mr. President, I will use leader time.

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

Mr. REID. Mr. President, the agents also showed me huge slingshots, for lack of a better description, metal slingshots that shoot ball bearings. These criminals who are trying to illegally bring people over the walls have these huge slingshots, and they will get a ladder over where the metal fence is, and they fire these and they do tremendous damage to our Border Patrol agents. That is just one example. I saw that famous tunnel. It was a third of a mile long; in some places 80 feet deep.

Half a million people come over our border, the Mexican border, every year. The fact is, our economy depends on them. We simply cannot get the situation under control until we acknowledge economic reality. To be sure, we need more Border Patrol agents, and we should give them the equipment and technology they need. We must shut down the flow of illegal immigration, but we also need realistic and enforceable immigration laws.

One crucial element of this strategy is to provide incentives for the undocumented immigrants already in the country to step out of the shadows. Today, there are more than 11 million undocumented people in our country, and more are coming every day. From a national security perspective, this is not acceptable. A sovereign government must know the identity of people crossing its borders and living in its cities. Of course, most of these 11 million people pose no threat, but those who do—we must know who they are.

Most of these 11 million have been here for a long time. Most have children and spouses who are U.S. citizens or permanent residents. Most pay taxes on property and are active, valuable members of their communities. Virtually all of them came here to work. But they are living in hiding. If they are the victim of crime, they don't report it because they are afraid to have contact with the police. They accept abuse and low wages in the workplace. They live in fear every day that they will be deported and separated from their families. They must have incentives to come out of the shadows. It is unrealistic to think we can round up these people and expel them.

As conservative columnist George Will recently wrote in the Washington Post:

> We are not going to take the draconian police measures necessary to deport 11 million people. They would fill 200,000 buses in a caravan stretching bumper-to-dumper from San Diego to Alaska.

That is farther than San Diego to Miami.

He writes:

> And there are no plausible incentives to get the 11 million people to board the buses.

Even if we could depart 11 million people, how would we? Do we want to? It would cost billions of dollars. Some

sectors of the U.S. economy would literally shut down, and it would be inconsistent with our core values as Americans.

There are two competing approaches to this issue. The House of Representatives has passed a bill that represents one approach. The Senate Judiciary Committee—and I compliment and applaud Senator SPECTER, Senator LEAHY, Senator KENNEDY, and all the members of the Judiciary Committee—reported out a bill that is bipartisan.

I believe the House bill is profoundly misguided. It purports to be a border security bill, but it contains provisions that are not about securing our borders at all. It makes criminals out of and demonizes a lot of hard-working people who are just trying to provide for their families. In my view, the House bill is mean-spirited and I really believe un-American and it would not solve the problem.

In contrast, the Senate Judiciary Committee bill would take real steps to restore order to our immigration system. It combines tough, effective enforcement with smart reforms to the immigration laws. It would strengthen our borders, crack down on employers who hire illegally, and bring undocumented immigrants out of the shadows. It would require them to learn English and pay taxes, have no criminal record, have a job, and pay fines in order to work toward legalization. And it is not amnesty. There is no free pass, no jumping to the front of the line. It is a bipartisan bill. Half the Republicans on the committee voted for it.

By shifting the flow of undocumented immigrants to legal channels and creating a hard-earned path to citizenship for those already here, we can finally focus on catching the criminals and terrorists who put our Nation at risk. That makes more sense than spending precious law enforcement resources trying to track down hard-working housekeepers, dishwashers, and other people who have jobs.

As we weigh these competing proposals in the coming days, we must not forget we are a nation founded on and built by immigrants.

My grandmother came from England. I talked to you about my in-laws—Russia, Lithuania. My great-grandparents came here to pursue the American dream. Let us honor that proud heritage and move forward on the committee-reported bill. That is a step in the right direction.

The PRESIDING OFFICER (Mr. THOMAS). The majority leader.

AMENDMENT NO. 3191 TO AMENDMENT NO. 3192

Mr. FRIST. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 3191 to amendment No. 3192.

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

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

The amendment is as follows:

(Purpose: To require the Commissioner of the Bureau of Customs and Border Protection to collect statistics, and prepare reports describing the statistics, relating to deaths occurring at the border between the United States and Mexico)

At the appropriate place, insert the following:

SEC. ___. DEATHS AT UNITED STATES-MEXICO BORDER.

(a) COLLECTION OF STATISTICS.—The Commissioner of the Bureau of Customs and Border Protection shall collect statistics relating to deaths occurring at the border between the United States and Mexico, including—

(1) the causes of the deaths; and

(2) the total number of deaths.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner of the Bureau of Customs and Border Protection shall submit to the Secretary a report that—

(1) analyzes trends with respect to the statistics collected under subsection (a) during the preceding year; and

(2) recommends actions to reduce the deaths described in subsection (a).

Mr. FRIST. Mr. President, the debate and discussion today has been superb in terms of addressing the overall issue of border security and immigration. It centers on the issue of security, of the economy itself, social issues, and issues of compassion. The amendment I have just proposed is an amendment that focuses on the latter; that is, the issue of compassion.

Over the past decade more than 3,000 men, women, and children have died along our borders. These deaths represent an immense humanitarian tragedy, a tragedy that all too often is shuffled off into the corner. While we have an obligation to protect our borders—and much of our discussion over the last 24 hours has been on the absolute critical importance of securing those borders—I think we have even a higher obligation to protect and preserve the life of every person who sets foot on American soil.

The people who die come here searching for a better life. They are not bad people. There are people such as Matias Garcia.

Mr. Garcia was the oldest of five children. He left school at the age of 8 to work in the fields. It is a story which is not too uncommon today. Each year he would cross that border illegally, unfortunately, coming into this country to enter California.

In the spring of 2003, he started crossing that border in May—one of the hottest months of the summer. A coyote—a human smuggler—left him with only 2 gallons of water. It wasn't enough. He became delirious, lost touch with reality and collapsed on the ground, to die within sight of the Arizona highway he had struggled to reach.

I commend the Customs and Border Protection's existing efforts to save migrants. I know the men and the women of the Customs and Border Protection agency put human life first, but we are failing today.

When I first started looking into this issue, I asked for the statistics and the statistics simply were not available. I would have to go to a local newspaper, call that newspaper along that border and another newspaper to compile statistics.

We must better direct our efforts to understand why people die, where they die and, most importantly, what we can do to reduce that death toll.

I have already requested that the Government Accountability Office report to us about this. But we cannot wait. We must begin to count those deaths now to see what lies behind those deaths and to see what we can do to mitigate that unnecessary loss of life. We must reduce the death toll.

This amendment will do both of those things, and we must save all the lives we can. I ask my colleagues to support this vital amendment. It requires the CBP to begin compiling reports about the number of deaths along the borders and their causes, and to also analyze those trends in border deaths and suggest specific policies that might serve to reduce them.

I ask my colleagues to support this critical amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from New Hampshire (Mr. GREGG).

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER), the Senator from Florida (Mr. NELSON), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that the Senator from Iowa (Mr. HARKIN) is absent attending a funeral.

I also announce that the Senator from West Virginia (Mr. BYRD) is absent due to a death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HARKIN) would vote ''yea.''

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

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 83 Leg.]

YEAS—94

Akaka	Bond	Clinton
Alexander	Brownback	Coburn
Allard	Bunning	Cochran
Allen	Burns	Coleman
Baucus	Burr	Collins
Bayh	Cantwell	Conrad
Bennett	Carper	Cornyn
Biden	Chafee	Craig
Bingaman	Chambliss	Crapo

Dayton	Kennedy	Reid
DeMint	Kerry	Roberts
DeWine	Kohl	Salazar
Dodd	Kyl	Santorum
Dole	Landrieu	Sarbanes
Domenici	Lautenberg	Schumer
Dorgan	Leahy	Sessions
Durbin	Levin	Shelby
Ensign	Lieberman	Smith
Enzi	Lincoln	Snowe
Feingold	Lott	Specter
Feinstein	Lugar	Stabenow
Frist	Martinez	Stevens
Graham	McCain	Sununu
Grassley	McConnell	Talent
Hagel	Menendez	Thomas
Hatch	Mikulski	Thune
Hutchison	Murkowski	Vitter
Inhofe	Murray	Voinovich
Inouye	Nelson (NE)	Warner
Isakson	Obama	Wyden
Jeffords	Pryor	
Johnson	Reed	

NOT VOTING—6

Boxer	Gregg	Nelson (FL)
Byrd	Harkin	Rockefeller

The amendment (No. 3191) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the following Senators be recognized: Senator MARTINEZ, for up to 3 minutes; Senator CRAIG, for up to 15 minutes; Senator DORGAN, for up to 20 minutes; Senator LINCOLN, for 15 minutes, with a Republican speaker between Senator DORGAN and Senator LINCOLN; and that the majority leader or his designee be recognized at 5 p.m.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from Florida.

Mr. MARTINEZ. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business for 2 minutes.

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

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

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I come to the floor this afternoon to participate in what I believe is a fundamentally important, if not historical, debate about national security and border control and immigration and local law enforcement, of a magnitude and an importance that this country has not seen in a long while.

This afternoon, I want to focus on border control because border control is synonymous with national security. If there is one responsibility our Government has—it is, in fact, a constitutional responsibility—it is that of national security.

It is crucial, for observers, citizens, listening in, watching, trying to understand this debate—and oftentimes frustrated by it—to understand that while there are many contentious issues that will be discussed and debated over the course of the remainder of today and tomorrow and next week—and that the news media may well focus on only segments of it, attempting to dramatize it, attempting to suggest there are great divisions amongst Members of the Senate and the Congress as a whole, and the citizens as a whole—Congress will start and end with legislation that serves, first and foremost, the national security interests of our country.

The bill that is now before us includes provisions that are unique and important and truly address those kinds of concerns that Americans have been speaking out about ever since 9/11, ever since we were thrust upon the issue of immigration and a reality that we had anywhere from 8 to 12 million foreign nationals, undocumented people within our country, and that some of them, while but a few, were intent on doing us harm, were intent on attacking our citizens and not here to work and to benefit themselves and their families. So it is appropriate that we start this discussion by looking at a critical element of national security, and that is simply border control.

I must tell my colleagues, that is as difficult, if not more difficult than attempting to address, understand, and identify some 11-plus million undocumented foreign nationals who are now in our country. Why? Because we have phenomenal borders. The United States has 7,458 miles of land borders and over 88,600 miles of tidal shoreline. We cannot possibly build a fence that long, that high, and that deep everywhere to accommodate with absolute surety that those borders are impenetrable.

I grew up with this as a very common statement amongst most Americans. When you read the history books and the government books of my day, while I was in the sixth and seventh and eighth grade and in high school and college, America was tremendously proud that it had literally thousands and thousands of miles of northern border and southern border that were unguarded, that we were a peaceful nation. And the nation to our north, Canada, and the nation to our south, Mexico, were peaceful nations. We didn't have to have guarded borders, and we didn't guard them. It was not only impractical in that day, it was simply unnecessary.

We realize the world has changed significantly and that clearly establishing workable security policies that act in many ways as a fence or a border must be called a virtual fence, a virtually impenetrable border because it won't be just building the fence where many propose it ought to be built. It goes well beyond that. It truly is a policy that works, that allows, that identifies, that controls, that shapes the relationship of our border so that while we want to stop those who may do us harm and control those who want to cross the border undetected, we must also recognize that we have to allow and we must allow movement of innocent citizens and commercial traffic. That is the nature of a border—to control, to shape, to clarify, to identify those who move across our borders.

In the last 5 years, we have increased funding for border security by 60 percent. For those who say you have done nothing, you are just flat wrong. This Congress, understanding from 9/11 to today the responsibility of controlling our borders, has invested dramatically the resources of the American taxpayer. We now have some 10,000 Border Patrol agents along the southwestern border and 1,000 along our northern border. Our border protection agents have removed more than 4.5 million people, of whom some 350,000 have criminal records. In fiscal year 2005 alone, the U.S. Border Patrol apprehended 1.19 million people attempting to enter our country illegally. Through the State Criminal Alien Assistance Program, Congress has provided more than $4 billion to State and local governments to help with the cost of incarcerating criminal aliens. It isn't just making sure the border is impenetrable, but when they cross the border making sure that we at the local level can bring about the kind of law enforcement that apprehends at least the criminal element and incarcerates them and holds them for future prosecution.

Last year's emergency supplemental funding bill contained an amendment by Senator ROBERT BYRD and myself reprogramming funds from other programs to make an immediate and substantial downpayment on increasing Border Patrol as well as adding hundreds of other law enforcement agents and nearly 2,000 more detention beds for illegal immigrants the law requires to be held for criminal activity. We didn't even have space, once arrested, once apprehended, to put the criminal element or those we felt might be engaged in criminal activity.

However, even as we have increased border enforcement, net illegal immigration continues to be estimated at 400,000 to 500,000 people a year. We were all stunned last week at the report that undercover Federal agents managed to smuggle radioactive material through security checkpoints at the border. For all the billions we have invested, while there is no question the border is tightening, it is still penetrable in an illegal way.

Clearly, despite the resources we have poured into the border, and with many successes, there is still much left to be done. The legislation before us, incorporated in a much broader immigration policy, is the kind of legislation that ought to go first, coupled with a responsible national immigration policy.

Both bills before the Senate today contain numerous provisions aimed at improving our border security. They will increase the number of Federal officers policing our borders and improve their training. These bills will clean up

Federal laws addressing criminal aliens, increasing the penalties for alien smuggling and gang violence and illegal entry and reentry, and expanding the definition of aggravated felony that is the basis for removing aliens or denying them entry in the first place.

These bills support the President's decision to end the catch-and-release program. Can you imagine, that is exactly what we have been doing. You catch an undocumented worker, you file it, you release them. Why? We didn't have the capacity to detain them and hold them, to process them appropriately and make sure they were returned to the other side of the border. Clearly, that is now in here, instead of requiring detention of all aliens caught illegally across the border until they could be formally removed. We couldn't handle that. Now we are increasing the number of ports of entry and provide for improvement of existing ports.

There is much more to improve border security in this legislation. I thought I would refer to a few of the other areas of enforcement policy. The bill authorizes 250 new Customs and border protection officers, 200 new positions for investigative personnel to investigate alien smuggling, and 250 additional port of entry inspectors annually from fiscal 2007 to fiscal 2011. It also increases the number of Customs enforcement inspectors by 200 in section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004. It authorizes 2,400 additional Border Patrol agents annually for 6 years, adding an additional 4,400 agents to the border over 6 years to the 10,000 already added by the Intelligence Reform and Terrorism Prevention Act of 2004, for a total of 14,400 new Border Patrol agents by 2011.

If America says nothing is being done, then America, listen up: This Congress is as committed as you are concerned about border control and building that fence. But it will not be a steel and concrete fence stretching from the Gulf of Mexico to the Gulf of California and the west coast. It will be a virtual fence of electronics, of surveillance flights, of the recognition of new ports and people, personnel, because the other is, at best, impractical and, at worst, once done, unworkable. That is why what we are doing now, many of us who have studied and worked with this issue for a good number of years believe, is the right approach.

Technical assistance and infrastructure: The bill authorizes such sums as are necessary in the acquisition of unmanned aerial vehicles, cameras, poles, sensors, and other kinds of technology to achieve operational control of the borders and to construct all-weather roads and add vehicles and vehicle barriers along the borders.

It requires the Department of Homeland Security to replace damaged primary fencing and double- or triple-layered fencing in Arizona's population centers and on the border, and to construct at least 200 miles of vehicle barriers and all-weather roads in areas that are known transit points for illegals who traffic the border. Is this nothing? This is a phenomenal, historic investment in building that virtual fence that is necessary and appropriate at this time.

It is safe to say that nobody in Congress, House or Senate, believes our job is done until we have acted to increase security for America's citizens, knowing that those who cross the border cross it legally and that those who cross are not a criminal element, are not putting our citizens at risk. None of us believes our job will be done until the border is closed but open to legal entry, open to those who have a right to come across because we have so designated them, so recognized them for the purpose they would come—to work in our economy to provide for themselves and their families, to come here to work, to go home, to someday become an American citizen if they choose and if they stand in line and make the application and make the effort to become just that.

I have been very outspoken about agriculture and agriculture's need for foreign national workers. American agriculture needs some 1.2 million workers annually. Many will be foreign nationals, as they have been in the past. Without them, it is possible that we could collapse American agriculture. If we cannot find the workforce for American agriculture to come here to work, then American agriculture's investment will go elsewhere to fill the supermarket shelves of our country with the quality of plentiful food that American consumers have grown and expect to be there. What American consumers have not recognized is that over the last 20 years, most of that food has been harvested by illegal foreign nationals.

Next week, I will talk in detail about changes in policy that are embodied within this legislation to improve our immigration policy, to recognize those who have come who deserve to be treated fairly. But today, tomorrow, and clearly throughout the week, I hope Americans understand that first and foremost our effort is to gain control of our borders, to make them secure, to make Americans feel comfortable that we have done our very best to take the thousands and thousands of miles of border, both land and sea, and to secure them for the sake of our Nation's security.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, some long while ago, I was on a helicopter flying in Central America between Honduras, Nicaragua, and El Salvador, in the mountains and jungles, with two other Members of Congress. We, unfortunately, ran out of fuel. So we abruptly landed. It is a universal rule that if you are in a flying machine and you run out of gas, you will be landing soon and we did. We were there for 4 or 5 hours until someone found us and sent other helicopters in to get us out.

The campesinos in the area had seen the helicopters landing and they decided to walk up and see who we were. So 30, 40 campesinos came to the helicopter that landed, and we talked with them. We had an interpreter with us.

I visited with a young woman with her three children in tow. We talked about her life. She had never met anybody from the United States. I asked about her life and I said: What would you aspire to do with your life? She said: I would like to come to the United States of America. I said: Why would that be the case? She said: Well, that is where there is opportunity—in the United States of America. This young woman, in the jungles of Nicaragua and Honduras, saw opportunity in the United States.

It is true that in much of the world, if you ask people what are your aspirations, they would like to go to the United States. We are a beacon of hope and opportunity. We have created a country that is quite extraordinary—a country in which we have developed a broad middle class. That middle class helped create jobs that paid well, that had retirement and health benefits, raised families, built communities, built churches, built schools, sent their kids to schools. What a remarkable country.

At the start of the last century, leading all the way up to this century, we had debates, which sometimes turned violent, about what are the conditions of freedom, what are the rights in this country. People died in the streets. James Fyler died. Not many remember his name. He was shot 56 times. Do you know why James Fyler was shot 56 times? It was because he believed that people who were going down into the coal mines ought to have a better deal. He stood for coal miners, for the right to form labor organizations and bargain collectively. He paid for that with his life.

Franklin Delano Roosevelt, in the first third of the century, helped write and signed the Fair Labor Standards Act, which created rights for American workers. It changed the conditions of work in our country. When Roosevelt died—there is the story that I have mentioned previously on the floor of the Senate about the journalist covering his funeral. As his body lie in state in the Capitol of the United States, a long line of people formed to file past the body of the President. A working man holding his cap, with tears in his eyes, stood in the line a long while. The journalist came up to him and said: Did you know President Roosevelt? And the working man said: No, I didn't, but he knew me.

His point was that this was a President who stood with working men and women. Who knows the working men and women today? Who stands with them and for them today? Well, we

built a place that is quite extraordinary, and a lot of people want to come to this place. Now, if you fast forward to 2006, we see a strategy in this country with respect to trade, the outsourcing of American jobs, and now with respect to immigration, of insourcing cheap labor.

I know this is a sensitive subject and a very difficult one for the Congress and the American people. There are two elements of what is being discussed by President Bush and by those in the Chamber of the Senate. One deals with those who have come to this country illegally—the 11 million or so—and the second deals with an add-on to that, offered in unlimited quantity by President Bush and in the quantity of 400,000 workers per year by the underlying bill discussed in the Senate, called guest workers.

I will talk a little about this. This chart shows the illegal immigration over the past two decades. People don't like to use the term, but you have to use that term. We have processes for immigration here. Let me describe what that process is. We allow people, through H–2A visas and H–2B visas—agriculture and non-agriculture work—to come into this country legally. In addition, people immigrate to live here permanently. In 2004, 175,000 people immigrated here legally from Mexico. By comparison, last year, 1.1 million who attempted to come into this country illegally were stopped at the border.

Last year, we understand—although we don't have hard numbers—in addition to the 1.1 million who were stopped at the border, another 400,000 to 700,000 came across illegally, to add to this growing number of illegal immigrants in this country.

My colleagues say—and I understand the comment—nobody is going to round up 11 million or 12 million people and prosecute them and deport them and all that. I understand that. We are going to discuss the conditions of all of that, and that is important to do. I don't want to, nor would any of my colleagues want to, diminish the worth, the dignity of those who are part of this pool. They came here illegally, but many have been here a long time. I understand that is a difficult issue. But let me not talk about that.

Let me talk instead about the add-on by President Bush and by the underlying bill in the Senate dealing with guest workers. I want to talk about that because as we outsource American jobs through terrible trade deals and because big American corporations want to find cheap labor in China, Indonesia, Bangladesh, and Sri Lanka, as we outsource those jobs and decide to insource cheap labor to take the jobs on the bottom of the economic ladder here, the question ought to be asked: Mr. President, who knows today's American workers—especially those at the bottom of the economic ladder?

I know the folks at the top have had it real good for a long time. They have an increasing share of America's income. But the folks at the bottom have struggled, lost ground, lost jobs, lost retirement, lost health care. Now this Congress is saying we want to change the status of 11 million people who are here illegally and make them legal, No. 1; No. 2, in addition to that, we want to have a guest worker program by which 400,000 people who now are outside of this country are going to be allowed in, in the next year, and that can increase 20 percent each year. As this chart shows, that guest worker provision, in my judgment, will likely lead to 4.6 million additional people coming into this country who now live outside of the country.

What is the purpose of this? I don't think there is much question at all. Why does the U.S. Chamber of Commerce and American business want this? They want to bring in cheap labor. We have seen lots of examples of this. Let me show a picture. This photograph shows immigrant workers who were doing work in response to Hurricane Katrina. I will tell you about this for a minute because I want to talk about motives and what is happening with respect to this proposal for guest workers which is of, by, and for American business that wants to import cheap labor.

On October 17 of last year, I chaired a Democratic Policy Committee hearing to talk about contracting practices with respect to the recovery effort due to Katrina. I heard from Al Knight and Mike Moran from Louisiana. They run a small business in Louisiana. Al and Mike run a New Orleans company. They were hired by a subcontractor of the Halliburton Corporation to provide 75 qualified electricians to work on a project they had begun at the naval air station in Belle Chasse, LA. The Halliburton subcontractor very quickly replaced their 75 local workers with workers from outside the region, many not trained as electricians and not from that region. Here is what Al Knight said, manager of the New Orleans company that lost that job, who had 75 workers who lost jobs:

> Almost all of the workers were from out of State. Most did not speak English. Few seemed to be qualified electricians. According to the Halliburton subcontractor, they were being paid two-thirds of our prevailing hourly wage, with no benefits. At the time, they were living in small tents off base.

Another person who testified had this picture of the living conditions of immigrants being brought in at subpar wages to do this work. That is at the root of much of this discussion with respect to guest workers.

Five days after I held that hearing, the Washington Post ran an article that pointed out that there was a raid and they found the illegal workers down at that job site on a U.S. naval air base.

Look, I am not unsympathetic to people who want to work and come into this country. But I am much more sympathetic, as an American, to those people at the bottom fifth or the bottom fourth of the wage scale in this country who are struggling to find good jobs, to hang onto those jobs.

We are told by companies: We cannot find American workers to take these jobs. Oh, really? I am telling you that there is a price at which people will take those jobs. You just want to pay dirt poor wages. How? Just bring in immigrants who work for lower level wages, and that way you never have to raise the income by which you attract American workers.

That, in my judgment, undercuts our economy, it disserves our workers, and it sends a message when you ask the question: Who knows American workers? Not this Congress, not this President. My hope is that we will start understanding what we are doing here. We are talking about American workers who all too often these days are seeing lost jobs, lost wages, lost retirement programs, lost health care, and lost opportunity. Now we are talking about a Congress that is talking not just about the 11 million people who came here illegally but about a Congress who says on top of that: Why don't we see if we can find a way, a formula by which we can add 400,000 a year; and at the end of 6 years, you conceivably could have said we want 4.6 million more workers who are now living in our country to come back to do this job. Is this about good government, about good economics? Is this sensible? Is this standing up for American workers? No.

I will tell you, it is about American businesses, big businesses who run most of the agenda around here, who want to continue to have access to a pipeline of cheap labor, because if you have cheap labor coming in, you never, ever have to increase wages at the bottom.

It has been 8 years since this Congress has increased the minimum wage for American workers—8 years. We have increased everything else—tax breaks for wealthy Americans, opportunities for companies to move jobs overseas. But we have not increased the minimum wage in 8 years. That is unbelievable. It is unforgivable, just in terms of values.

Now, we have quotas in this country by which we allow people in. Some don't like that. But the fact is, if tomorrow we had a new public policy and said as a country, look, there are no restrictions, no more quotas, no more immigration issues, whoever in this world wants to come here, God bless you, come and stay. If we did that, we all know what would happen. We share this small planet of ours with about 6.3 billion people; half of them live on less than $2 a day. Half of them have never made a phone call, and they don't have access to clean, potable water. We simply cannot, as a country, having built what we built to increase our standard of living, decide that we can be the sponge for everybody everywhere who wants to come to our country. We cannot do that.

As a result, we have immigration laws. Those immigration laws provide opportunities for others to come to our country. Last year, for example, our Southern border allowed 175,000 people to immigrate legally. Second, through the processes of the visas that are issued for agricultural workers and temporary, seasonal nonagricultural workers, tens and tens of thousands more came across temporarily. That is the way we have always done business.

I understand those who have come to this floor saying let's try to find a way to address the status of the 11 million people who are already here. I don't understand this Congress, this President saying: Oh, by the way, we have this huge problem that has become a mushrooming problem, so let's bring in 400,000 more workers each year, and let's add to it by putting a formula in this bill that says we will have an expansion of 20 percent more each year, if you reach the 400,000 in the first quarter. I don't think that makes sense.

I understand all those who speak for immigrants, and I don't want to do anything to diminish their value, their worth, their dignity. God bless them all. But I also want to be here standing for American workers who are struggling trying to find their footing, trying to find a job.

There is no social program in this country, there is no social program that we work on in this Congress, as important as a good job that pays well because that allows everything else to be possible in a family. A good job allows people to take care of their kids. It allows people to do the things they want to do. There are fewer and fewer of those kinds of jobs.

To suggest on top of dealing with the 11 million-plus guest worker program to bring 400,000 a year in with a 20-percent expansion program on top of that, I think it defies all common sense. This is clearly a corporate strategy to keep wages low. It clearly will replace the jobs of American workers.

Let me describe a study that was recently done. Professor George Borjas of the John F. Kennedy School of Government did a study on the impact from 1980 to 2000 on U.S. wages by ethnicity. What he said is the kind of integration occurring with people taking substandard-wage jobs—and incidentally, corporations have been wanting to do that because if someone is illegal, they can pay them little or nothing. They don't have a lot of leverage with the employer. What he said is it has decreased income for the average American worker. It has decreased income for the Hispanic workers more than anyone, talking about the Hispanic workers who are part of the workforce legally, and it has decreased income for African Americans, Whites, and Asian. But Hispanics and African-Americans have been the hardest hit of all.

The fact is, with this illegal immigration and now on top of that, hundreds of thousands of so-called guest workers on top of the visas that already exist, there isn't any way to describe what this is going to mean other than it is going to depress income for the lowest 20 to 40 percent of the American workers, and it is going to take jobs from the lowest 20 to 40 percent of the American labor force.

I remember Ross Perot when he talked about NAFTA, the horrible trade agreement that has dramatically injured our country. He was then talking about American jobs going to Mexico. He called it that giant sucking sound, that giant sucking sound, sucking American jobs to Mexico. He was right about that. All the economists, all the hotshots who got paid all the money on behalf of American businesses particularly supporting NAFTA told us: Some jobs will go there. They will be low-skilled, low-wage jobs.

Oh, I am sorry. We have some experience now. Mr. President, do you know what those jobs are? The three biggest imports into this country from Mexico are automobiles, automobile parts, and electronics, all of them the product of high-skilled jobs but not high wages. They displaced high-skilled, high-wage jobs in this country. Now that giant sucking sound will be heard from the other direction. That giant sucking sound will be sucking 400,000 immigrant workers into this country each year at the bottom of the economic ladder to displace workers in this country. I am not talking about the 11 million; I am talking about 400,000 additional workers who will displace American workers and continue to put downward pressure on wages.

I don't understand what the thinking is of people who decide that they want to find a way to continue to diminish opportunities in our country for our workers. I think of what a turnabout this has been for this country in a century. There was a time when American workers were valued, work was valued. No one stood quite as tall as those who had a good job.

I am going to speak on this next week again, and I know others have some time, but I do want to make one final point. I have not yet spoken about the security on our borders. Senator DOMENICI and I introduced legislation dealing with real border security, which I expect we will talk about additionally. While I have talked about jobs and income and immigration, the issue here is in addition to security, a country targeted by terrorists has to have secure borders. A country that is such a magnet for illegal immigration has to have secure borders. A country that cares about its workers has to have secure borders. A country that cares about the ability of a worker to find a job and have a decent wage and have retirement benefits has to care about the security of its borders. It is just that simple.

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

The PRESIDING OFFICER. Time has expired.

Mr. DORGAN. I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, before the Senator from North Dakota leaves, I have been paying attention to his comments and feel strongly that he has made very good points. I am going to zero in on areas he did not cover. I suspect he will agree with many.

One point is there is an answer to stopping our perforated borders. There is a means of doing it a lot cheaper than people have talked about. And the other point is a requirement for English to be the official language. It is a rather complicated subject, but those two areas I think the Senator probably would agree with me, as I agree with most of the remarks he has made.

First, Mr. President, for some reason, I have never been sure why it is, but I have been invited to speak at more naturalization ceremonies in my State of Oklahoma than any other Members, I believe. It is always a very touching event for me because these people go through the process, the legal process, of becoming a citizen of the United States, as my grandparents had to do. They learned the language. They learned more about the history of this country than the average person you will run into on the streets of Washington, DC. And these people are so proud.

I recall one guy. He is from Vietnam. His name is Thi Van Nguyen. He is an outstanding young man, and he had worked hard to become a citizen. I happened to be a speaker at his naturalization ceremony that was taking place in one of the courthouses in Oklahoma.

After the ceremony was over, he went down and changed his name to James Thi Nguyen, instead of Thi Van Nguyen, which was the highest honor one can pay because here is a person who wanted to go through the process of becoming a citizen the right way. It appears to me anything short of a slap in the face to all these people who came here legally and did it right.

I would like to mention a couple of areas I am going to be offering in the way of amendments. One is what we call the National Border and Neighborhood Watch Program or the BRAVE Force. There is an acronym for everything. It stands for border regiment assisting in valuable enforcement.

I think we have learned one thing that probably most of us knew already. I draw from a background of having been a developer in south Texas right on the Texas border. I have been there many times, and I have been down there actually working and developing for some 35, 40 years.

It happens I am an aviator, so I would always fly my own plane down there and land at Cameron County Airport. It is adjacent to the immigration center. I would watch and see what was going on. Yes, we are taking good care of those people.

I started getting interested in it. I said: What is the negative? What are

these people facing should they be caught trying to come illegally over the border? They go into the center. So I looked over at the center and saw half were in brown jumpsuits and half were in orange jumpsuits. I said: What is the reason for that?

They said: A football team brown versus the green and basketball and other activities.

Probably the food—I went over and inspected it—is better than most people would eat in their country.

I looked at that and thought: We aren't really offering much of a disincentive for people to come in illegally.

This program we call the Brave Force Program recognizes that our borders can be closed, our borders can be strong borders, and we can stop people from coming in. I am sick and tired of people saying this can't be done or it can only be done with a certain kind of fence. There are areas with serious problems, but the answer is in numbers.

The minutemen demonstrated very clearly that if you have enough people down there and take a 35-mile area, you can stop people from coming across. I recognize the criticism of that program. I don't agree with it. Certainly there is some authentic argument against it when they say these people are not law enforcement people. They are not trained that way.

I found out something after 9/11 when we were dealing with the TSA, and that is that Federal law enforcement officers have a mandatory retirement age of 57. Since I have worked with them before, I started getting letters from them saying: Why can't we come in as sky marshals and other positions? We, as an organization, would be willing to do it just for cost, just to pay our expenses.

If we had an army down there, as my amendment calls for, these people are available. It is virtually just for the cost of sustaining these people while they are on watch. There would be an army of law enforcement officers for each trained Border Patrol agent. Then we have the neighborhood watch people who are volunteers and are not trained properly, but they can help the second tier.

There would be three tiers. We would have the trained Border Patrol people, then the retired law enforcement officers, and then, of course, the neighborhood watch people. It is a numbers game that has been very successful and has worked.

Civilian volunteers, much like the minutemen, would be able to report to those who are in a higher level of training. I think this BRAVE Force would be effective. You don't have to be a rocket scientist to see we can do something on the border. It is just we have not been able to do it.

Let me interject that as one of the high-ranking members of the Senate Armed Services Committee, I certainly don't want to get sucked into the point where we are going to have to use military people on these borders when they are already overworked. The OPTEMPO of our military right now is at an unacceptable rate. By ''military,'' I mean our standing forces, as well as the Reserve components—the Guard and Reserve. This wouldn't affect that. This would ensure we are not going to have to further dilute our military.

That is one of the amendments I am going to offer. The second one has to do with the English language. I know people get all exercised about this issue. The language is taken almost verbatim from PETER KING's House Resolution 4408 by strengthening a very weak provision in the Judiciary Committee bill that will be under consideration here, that illegal immigrants currently in the United States must merely ''demonstrate an effort'' to learn English when applying for a green card.

Anyone can demonstrate an effort to do anything. You don't have to do anything to do that. So that is a meaningless phrase. There is no requirement whatsoever. My amendment would require these immigrants to learn our language by making English the official language of the United States and making all official business of the United States conducted in English, including publications, tax forms, information material, and other items.

As a matter of fact, my amendment follows what at least 26 other States already have at the State level. They have English as the official language. Half the States already have that, and there is nothing wrong with making that uniform throughout the United States.

Making English the official language would eliminate about $1 billion to $2 billion annually that we spend on providing language assistance, including Federal agencies and funds recipients, according to the Office of Management and Budget.

Studies show that those who know English get better jobs, earn more money, and are less likely to be uninsured. As a result, English decreases Government dependency.

This will come as a shock to you, Mr. President, because they think—and I do speak Spanish. I have worked for many years in areas—I was a commercial pilot in some of the Latin American countries. I know the language fairly well, so I can communicate. But I do know this: There are a lot of immigrants in this country who support English as the language.

In 1995, there was a poll—I talked about this once before on the floor—by Luntz Research, and it said that more than 80 percent of immigrants supported making English the official language.

Eighty percent. These are the ones who are supposed to be against it. They are not against it, they are for it.

The need for official English appears in our newspapers every day—injuries in the workplace, lawsuits over mistranslation in hospitals, people who are unable to support their families—all because they can't speak English. Making English the official language would also help immigrants assimilate, which is vitally important to becoming an American and preserving our rich heritage.

As my colleague, Senator ALEXANDER, said yesterday—and I thought so much of this, I got his quotes—he said:

Becoming an American—

This is very significant—

Becoming an American is also a unique accomplishment because it has nothing to do with ancestry.

In other countries, it has to do with ancestry. My family came from Germany, so we all come from different places.

He said:

America is an idea, not a race. We are united by principles expressed in our founding documents—the very principles that we are debating in this immigration legislation—not by our multiple ancestries.

I am still quoting from Senator ALEXANDER, who made this speech yesterday, which is well researched and well thought out.

Some suggest that our diversity is what makes our country great. To be sure, diversity is one of our strengths, but diversity is not our greatest strength. Jerusalem is diverse. The Balkans are diverse. Iraq is diverse. The greatest accomplishment of the United States of America is that we have molded that magnificent diversity into one Nation based upon a set of common principles, language, and traditions. That is why the words above the desk—

And the desks of many of us, including mine—

say ''One from many,'' not ''Many from one.''

Clearly, as Senator ALEXANDER so eloquently stated, our Nation is unique among the nations of the world in that we welcome people from all countries and backgrounds to become Americans. By becoming Americans, they are saying they want to adopt our laws and our way of life, and this includes speaking English. It is very much like the case I just cited to you of Thi Van Nguyen coming in so emotionally wrapped up. It wasn't enough just to become a citizen of the United States, he wanted to adopt my name.

Some of our colleagues as well as the people watching us may think this amendment is unnecessary because they mistakenly think English is our official language anyway, but it is not. I have received constituent letters insisting that the Senate do something about bilingual ballots, bilingual education, and driver's licenses in other languages.

People in my State of Oklahoma are angry, and they have good reason to be so. It seems there are those who object to immigrants learning a single word of English. This is not an exaggeration. In the April 10, 2006, issue of The Nation magazine, an article called ''Strangers in the Land'' seriously asks:

Why should linguistic competence be a factor—or acceptable as an item for democratic debate—in determining citizenship? As my comrade for a day in Los Angeles would attest, a nonEnglish speaker in the United States not only can get and hold down a job; she—

Or he—

can also turn out the vote. Why should a nonEnglish speaker be allowed to mobilize for American democracy, not to join it as a citizen?

Learning the language and learning something about American history was something the ancestors of nearly everyone in this Chamber accomplished as a matter of course. All of a sudden, everything is changing, and we are told that it is unfair to expect today's immigrants to do likewise. Yet if people are not encouraged to learn English, they will be dependent upon translation services for the rest of their lives. There is nothing wrong with using a translator. I have done so on my trips to Africa quite often. But it is dangerous to rely entirely upon the accuracy of any translator, especially in one's own country. The competence of any given interpreter is all too often in the eye of the beholder.

Judge Wayne Purdom told the National Law Review that once interpreters are in place, the arguments have only begun:

Sometimes one interpreter is very critical of another's translation—right in the middle of the courtroom—and they will interrupt and contradict each other and say the other person's translation is inaccurate.

We have seen it happen. We have documented cases. Even the translation currently required at the polls has failed to accomplish its intended purpose: helping people cast an informed ballot.

Consider the 2000 election: In one community in New York, the Chinese bilingual ballot translated the ''Democratic'' label on all State races as ''Republican,'' while ''Republican'' was translated to be ''Democrat.'' Consequently, we know the results.

In the 1983 case of People v. Diaz—and we have talked about this before—a California court confessed, and I am quoting now from the record:

We recognize that frequently there is no single word in a foreign language which carries the identical meaning of a single word in the English language. We examined four different Spanish translations of the Miranda advisement at issue.

That was the case going on at that time.

We discovered that none of these translations was identical.

If governments do not agree on the proper Spanish translation of the phrase ''You have the right to remain silent,'' how can they accurately translate the context of legal documents? And the short answer is, they cannot. But legal language is complex because it is meant to be exact. Translation may muddy that precision.

I can see the day when someone will go to court claiming that the Spanish translation of some piece of legislation has a different meaning than the English version does. In the absence of an official language, there would be no way to resolve that dispute.

For decades now, we have looked the other way while multilingual mandate was piled upon multilingual mandate. State and local taxpayers have shouldered much of the fiscal burden for our insistence upon welfare forms in Spanish and school documents in Cantonese. Immigrants, too, have suffered from this ''reign of multilingual micromanaging.''

The National Review just this week put the problem in a very vivid perspective, and I will quote because I want this in the RECORD:

I was reading Li Shaomin's account of being held in China over long months.

Some of us will remember that.

Li recounted how the Communist security thugs taunted him and tried to break him. Taking his passport, they said, ''This will do you no good. You may have an American passport, but you are not a real American, and never will be. You were born in China, and you will always be Chinese.

Every bilingual ballot and every multilingual government document sends this same message to immigrants: You are not a real American, and you never will be. This is wrong.

Thankfully, America's Hispanic immigrants are turning out this vile message that they need not bother to learn English.

Hispanic Magazine recently carried a story, ''The Next Generation of Hispanic TV is in English.'' Allow me to read a paragraph from this news story:

Most U.S. Latinos are bilingual, 54.7 percent, say Census data, and consume media in both Spanish and English. The 2002 National Survey of Latinos by the Pew Hispanic Center found that 46 percent of second-generation and 78 percent of third-generation adult Hispanics speak mostly English.

The Pew Hispanic Center echoed these findings in 2004:

In one key segment of the Hispanic population—likely voters in U.S. elections—the English language media is the dominant source of news. More than half of Latino voters, 53 percent, get all of their news in English and 40 percent get news from media in both languages, while only 6 percent of likely voters get all their news in Spanish.

Statistics such as these are counter to what most people think. The idea that 80 percent of the immigrants want English to be the official language is really pretty incredible. Hispanics are learning English, they are willing to learn English and support the idea that immigrants should learn English. Only the groups which claim to represent the Hispanic people seem to have a problem with the English language. Of course, should Hispanic immigrants fail to learn English, these self-styled Hispanic leaders will benefit from their ignorance.

John Miller of National Review told The Washington Post, correctly, on May 28, 1998:

On the whole, there is an American national identity that immigrants ought to be encouraged to assimilate into.

A recent Zogby poll confirmed that most Hispanic Americans still agree with Mr. Miller. Eighty-four percent of Americans, including 77 percent of Hispanics, believe English should be the official language. So there were two totally different polls taken at different times coming to the same conclusions. We are not doing them any favors.

I think a lot of politicians are so afraid they are not going to get the Hispanic vote in some of these highly populated Hispanic States, and they are misinterpreting. To me, it is insulting to the Hispanic community to say: You cannot be a real American unless you learn—just by sitting on the side lines. I believe they are all capable of learning it and they are able to do it and they are willing to do it.

The other polls have similar findings. Ninety-one percent of foreign-born Latino immigrants agree that learning English is essential to succeeding in the United States, according to a 2002 Kaiser Family Foundation poll. A 2002 Carnegie/Public Agenda poll found that by more than a 2-to-1 margin, immigrants themselves say the United States should expect new immigrants to learn English. These are immigrants saying that they expect to have to learn English.

My official English amendment is the only popular thing to do, the right thing to do, and it is the fiscally necessary thing to do. Multilingual government is not cheap, and translation is not free. This Nation is at war with a relentless foe. Just as a family seeking to reduce expenditures will reexamine its budget to look for needless frills, so too must the U.S. Government.

I also wish to mention the two pictures I brought with me today. As the old saying goes, a picture is worth a thousand words. There is nothing I could say that would be more telling than these pictures, taken of high school students in California raising the Mexican flag above an upside down American flag. This is not only disgraceful, it is disgusting and a slap in the face at everything for which this great country stands. These students are living here enjoying the benefits of the United States, not Mexico. But this is happening all over the country, it is not just California. I believe this picture demonstrates what I have been talking about—that we desperately need to seal our borders and instill ways of helping immigrants know and love this country and appreciate the sacrifices made for the liberties they would be enjoying.

So there are two amendments that I have. One would go a long way to securing the border. I know it will work; it has been demonstrated by numbers. That is the name of the game. Secondly, making English the official language of the United States of America, to do away with this type of thing.

Over 2 years ago, on January 7, 2004, after President Bush's press conference

on Fair and Secure Immigration Reform, I announced my principles regarding immigration reform:

I would oppose any program that would shortcut the current naturalization process;

I would oppose any program that rewards illegal aliens for their illegal acts;

I would oppose any program that does not further address the porous nature of our borders.

I remain true to those principles today. Let me elaborate.

I agree with the 1997 U.S. Commission on Immigration Reform which stated that measured, legal immigration has lead to create one of the world's greatest ''multiethnic nations.''

I also agree with the commission that immigrants who are ''Americanized'' help cultivate a shared commitment to ''liberty, democracy and equal opportunity'' in our Nation.

However, I cannot stand idly by and watch this great Nation collapse under the pressure of illegal immigration.

Roy Beck, executive director of Numbers USA, a nonprofit organization dedicated to immigration reform, stated that:

A presence of 8 to 11 million illegal aliens in this country is a sign that this country has lost control of its borders and the ability to determine who is a member of this national community . . . a country that has lost that ability increasingly loses its ability to determine the rules of its society—environmental protections, labor protections, health protections, safety protections.

Beck goes on to say:

In fact, a country that cannot keep illegal immigration to a low level quickly ceases to be a real country, or a real community. Rather than being self-governed, such a country begins to have its destiny largely determined by citizens of other countries who manage to move in illegally.

Illegal immigrants continue to flood our borders and cause a myriad of problems for our country and law-abiding citizens like you and me.

For example, according to the Center for Immigration Studies, CIS, a nonprofit immigration reform organization, some of the most violent criminals at-large today are illegal immigrants, not to mention the terrorists who have illegally entered our country or overstayed their visas.

I would like to share a personal story regarding illegal aliens who commit crimes in the United States and then flee across the border to Mexico.

Last May, my friend's son, Jeff Garrett, was tragically shot by an illegal alien while Jeff was turkey hunting in Colorado.

Ater he shot Jeff, the alien fled to Mexico where he is hiding today.

I know this story is just one among many about police officers and other innocent Americans murdered each year by illegal aliens who then find safe harbor in Mexico.

We must prevent these criminals from coming across our borders.

Not only are illegal immigrants increasing by crossing the border in droves, they are having ''anchor babies'' in rapid numbers.

These babies are helping the immigration population grow more rapidly than the birth rate of American citizens.

In fact, the Census Bureau estimates that at the time of the 2000 Census, the illegal immigration population reached approximately 8 million.

Therefore, according to this estimate, the illegal-alien population grew by almost half a million a year in the 1990s.

These numbers are derived from a draft report given to the House Immigration Subcommittee by the INS that estimated the illegal population was around 3.5 million in 1990.

In order for the illegal population to have reached 8 million by 2000, the net increase would be around 400,000 to 500,000 per year during the 1990s.

According to CIS, based on numbers from the National Center for Health Statistics, in 2002 there were about 8.4 million illegal aliens, which represent about 3.3 percent of the total U.S. population.

That same year, there were about 383,000 babies born to illegal aliens, which represented about 9.5 percent of all U.S. births in 2002.

Additionally, in the Spring 2005 issue of the American Physicians and Surgeons Journal, Dr. Madeleine Pelner Cosman says:

American hospitals welcome anchor babies. Illegal alien women come to the hospital in labor and drop their little anchors, each of whom pulls its illegal alien mother, father, and siblings into permanent residency simply by being born within our borders.

Anchor babies are, and instantly qualify for public welfare aid. Between—300,000 and 350,000 anchor babies annually become citizens because of the fourteenth amendment to the U.S. Constitution:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside.

Dr. Cosman continues:

In 2003 in Stockton, California, 70 percent of the 2,300 babies born in San Joaquin General Hospital's maternity ward were anchor babies, and 45 percent of Stockton children under age six are Latino (up from 30 percent in 1993). In 1994, 74,987 anchor babies in California hospital maternity units cost $215 million and constituted 36 percent of all Medi-Cal births. Now they account for substantially more than half.

These anchor babies are being used to enable their parents to skirt the law, cross our borders, and bring in additional, illegal aliens.

Furthermore, as the law currently stands, by allowing these children to be considered citizens, it is an incentive for more aliens to illegally cross into our country.

I am very concerned about the cost these illegal immigrants have on the U.S. economy.

Because illegal workers do not pay income taxes, it is estimated that the Federal Government could be spending $35 billion a year in unpaid taxes, according to Gear Stearns Asset Management.

This figure does not include additional costs spent on illegal immigrants for welfare, healthcare, education, and imprisonment.

In fact, according to Americans for Immigration Control, a nonpartisan, grassroots organization, the implications for these illegal immigrants in the future could cost upwards of $1,500 per year if these same illegal immigrants are granted amnesty because they would suddenly have access to many social programs for which they are not currently eligible.

This means the government could spend an additional $6 billion in welfare expenditures alone.

Taxpayers also pay for illegal immigrant's healthcare.

According to the Oklahoma Health Care Authority, illegal immigrant women living in my State gave birth to 2,600 babies in 2005. Delivery of these children cost $6.5 million, or 83 percent of all Medicaid money that is spent on healthcare for illegal immigrants in Oklahoma.

Taxpayers also pay every time an illegal alien visits an emergency room; which they often use as their primary healthcare provider.

Federal prisons are also feeling the strain from illegal immigrants.

June 2003, criminal aliens comprised 34,456 of the prisoners held in Federal prisons.

According to the Bureau of Justice Statistics, holding criminal aliens in Federal prisons cost taxpayers $891 million in 2002.

In Oklahoma alone, the estimated annual operating expenditure for Federal prisons was almost $12,000 per noncitizen inmate in 1999.

Additionally, elementary and secondary education is often one of the most expensive programs funded by State and local governments.

A 1982 Supreme Court ruling entitles children of illegal immigrants to taxpayer-funded government education.

Today, according to the Urban Institute, an estimated 1.1 million school-aged children of illegal immigrants are living in our country.

The cost of educating these illegal students is almost $2 billion per year and is projected to top $27 billion per year in the near future, according to Americans for Immigration Control.

Considering the burden and risk of the current level of illegal immigration, I firmly believe it is vital to secure our borders first, before we address any other immigration issue.

What the Judiciary Committee voted out is amnesty; it allows virtually anyone who is here illegally or who wants to come here to apply for citizenship.

This is a reward for law-breakers. It is essentially an open flow for immigration.

We have seen in the past that this approach does not work.

For instance, in 1986, the Immigration Reform and Control Act, IRCA, granted amnesty for illegal immigrants already here in return for strict prohibitions against future illegal entrants.

In place of promised outcomes, however, the number of illegal aliens has more than tripled since IRCA was passed.

Another problem with the Judiciary Committee bill has to do with college tuition for illegal aliens.

While current law allows States to determine whether or not they will provide in-State tuition at colleges and universities for illegal aliens, the Judiciary Committee bill includes a provision whereby the Federal Government mandates that States provide in-State tuition for illegal aliens.

This is unfair for the thousands of out-of-State students who must pay higher tuition costs than illegal immigrants who have broken the law and do not belong in our country.

Some say we don't necessarily need as many guest workers as the Judiciary Committee bill allows.

For example, economist Philip Martin of the University of California says that, when the ''Bracero'' program of the 1960s that brought in seasonal Mexican laborers was discontinued in 1964, the California tomato industry that had depended on these workers developed oblong tomatoes that could be picked by a machine—increasing California's tomato output five times more than what it was before the machines were used.

In a recent Washington Post article, Robert Samuelson expresses his view that with a massive guest worker program, we are importing poverty.

Referring to guest workers, Samuelson says:

. . . they generally don't go home, assimilation is slow and the ranks of the poor are constantly replenished. Since 1980 the number of Hispanics with incomes below the government's poverty line (about $19,300 in 2004 for a family of four) has risen 162%. Over the same period, the number of non-Hispanic whites in poverty rose 3% and the number of blacks, 9.5%.

He continues:

What we have now—and would have with guest workers—is a conscious policy of creating poverty in the United States while relieving Mexico. By and large, this is a bad bargain for the United States. It stresses local schools, hospitals and housing; it feeds social tensions (the Minutemen have witnessed this) . . .

As a matter of fact, according to the Pew Hispanic Center, the illegal immigrants that are currently here only represent about 4.9 percent of the labor force; they represent 36 percent of insulation workers, 28 percent of drywall installers, and 20 percent of cooks.

These illegal immigrants, while large in numbers, are not the majority of the workforce.

I ask that we consider the Frist bill which, though not perfect, would increase enforcement and border security.

I further ask that we not bring up the Judiciary Committee's amnesty bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. Mr. President, I rise today to add my voice to this debate on reforming our immigration system. While many of us here may have our differences, I think one thing on which we all agree is that the current system is broken and something must be done now if we are ever to get this situation under control.

There does seem to be a consensus in this body, and I think it is appropriate, that we absolutely must strengthen our borders. I personally believe that securing our borders has to be a priority in what we achieve in this legislation. Our borders have been porous for years and we must take adequate steps to secure them, and we must do it now.

This is a homeland security issue, first and foremost, but it is also a good government issue. American taxpayers continue to see their tax dollars spent on securing our borders without the results they deserve. While traffic from areas where we have placed more enforcement has decreased, border crossings in total have risen by 43 percent, despite tripling patrol personnel. The cost of an arrest has increased from 1992, when it was $300, to the cost of $1,700 in 2002.

Americans cannot afford this type of performance from a security standpoint or an economic standpoint. At a time when America is facing its most serious threat and dealing with record deficits, having our borders remaining unsecured as we spend more on them is simply unacceptable. It is unacceptable to the American people in terms of security and economics.

But securing our borders without dealing with the over 12 million undocumented immigrants who are in this country is not the solution either. One without the other is not going to achieve the results we want in the cost-effective way we must do it.

Many in this body are probably somewhat unaware that my State of Arkansas had the largest per-capita increase of its Hispanic population of any State in the Nation during the last census. Arkansas has become what is referred to as an emerging Hispanic community, with largely first-generation immigrants. These immigrants have a dramatic impact on our communities and on our economies. They are hard working, they are active in the religious community, they are law abiding, and they are putting their children through school. Whether they came here legally or illegally, they are establishing roots and we cannot dispute that. The majority of immigrants in my State came to the United States because they wanted good work and a better way of life for their families. A good number of them are educated and wanted to take advantage of the opportunities afforded to them in the U.S. economy. This is why a plan based on ripping these roots out of the ground and deporting over 10 million people is simply not realistic.

First, we couldn't afford it. Second, I am not sure we could implement it. And then think of what it would do to our economy.

While these people may have come here illegally, many of them have been here long enough now to have become part of the fabric of our communities. Removing them will break up families and it will hurt our local economies.

I am not saying we should grant amnesty, and neither does the amendment Senator SPECTER has offered. It is critical to know that amnesty is not the answer. No reform should grant amnesty. Total and immediate forgiveness for past crimes—these are not things we believe in this country. The rule of law is critical. To do so would severely undermine the rule of law in this country.

As I stated, it is impractical to believe, though, that we can simply round up and deport all illegals in this country. It is also unlikely we can coax illegals out of the shadows by offering them a limited period to remain in this country before we eventually deport them. They will continue to hide and move around in the same networks that have protected them thus far.

I believe the solution is earned legalization, and that is why I have supported the McCain-Kennedy bill and the similar bill that was passed out of the committee, offered as a substitute by Senator SPECTER.

Some have characterized these bills as amnesty. Amnesty is a general pardon for a previous crime. By contrast, this reform plan includes serious consequences for those who remain in our country illegally.

Under the committee bill, an illegal immigrant faces an immediate $1,000 fine, a security background check, application for a work visa, and an 11-year path to citizenship. Most immigrants who apply for citizenship now achieve that in 5 to 6 years. After staying continuously employed for 6 years, paying all back taxes, learning English—as my colleague from Oklahoma has expressed as being a very important part of this—learning U.S. history and government, and paying another $1,000 fine in application costs, the worker could then apply for a green card and legalization.

That is not going to the front of the line, but it is going to the end of the line after those who have already chosen a legal path to begin with. Their green card application, as I said, will go to the back of the line behind all the legal applicants who are waiting for those green cards. Finally, this path is only available to the illegal immigrants who were here before January of 2004.

This does not sound like amnesty to me. It sounds like a challenge but a challenge that presents excellent rewards instead of the dire consequences

we would suffer if we took an irrational reaction to this enormous problem that is growing in our Nation.

The other path for an illegal immigrant would be to continue trying to hide. But now, under increased enforcement measures and stiffer penalties as we have seen that we would put into place under this bill, I believe the majority of the people who have come here illegally but came to make a better life for themselves, will emerge from those shadows to become legal residents of their communities, to engage in what we came here to seek, because we have provided for them a pathway to become legal.

It comes at cost. It comes at great cost to them, both financially as well as the time they have to spend to engage themselves in becoming legal residents of this great Nation. But it is worth it to them and it is worth it to us to set this issue straight, to begin to reform a problem that is growing desperately out of control.

Many of them already pay local taxes in the communities where they are. Some of them are paying into Medicare and Social Security with no promise of receiving any of the benefits. But think how we could strengthen those programs if we put them on a pathway to legalization. We know who these 12 million undocumented workers are and we put them into the system to strengthen Social Security and Medicare by assuring that their withholdings are coming out and going into the system as well.

I am reminded of an incident in my home State of Arkansas. Recently, we saw law enforcement officials who were acting on a tip from an informant. These were national law enforcement officials. They did not contact the local law enforcement in our small communities there in Arkansas, but the folks from Washington swooped into a poultry processing plant and they arrested approximately 120 workers who were carrying forged or illegal identification documents.

What occurred there does not make what those illegal immigrants did right. It doesn't make it right at all. They were there illegally. They were there with forged documents. Actually, it was a local U.S. citizen in the community who had helped produce those documents for them. But I want you for a moment to think about what occurred after these Washington law enforcement officials swooped into a community without notifying the local law enforcement and seized 120 workers.

Most of these workers were parents. They are parents who were not allowed to call home to tell their children what was happening. We had children who were left behind in the care of the Catholic Church, or friends, or anybody who would take care of these children. Some of them were as young as 12 months old—kids abandoned because the parents were not allowed to call.

It was a sudden and brutal act and it separated families and left a community divided. Not because people wanted to defend the illegals who were there, the undocumented, or those who were there with false documents, but because of the way it was handled. That is what we are here to debate. Not that we differ about that. I don't think anybody in this body wants amnesty. They don't. What they want to do is to make sure we handle this issue in the right way.

I would imagine most of my colleagues in this body learned, as I did, at an early age from their parents that there is a right way and a wrong way to do everything. We have an opportunity to come together, to figure out the right way that is consistent with the American values we all hold dear, to figure out a solution to this enormous problem that continues to grow. It reflects on who we are as Americans with respect for the rule of law, making sure that people know they have to follow the law and they have to act within the confines of the law, but with the kind of encouragement that every human being should be allowed to reach their potential.

You can pay those fines, you can take the initiative and learn English and learn about this great country. You can get back at the end of the line after having tried to break into the line in front and still have the ability to reach that potential if you are willing to pay for your mistakes. That is what this bill is about.

When I think of the calls for the arrest and the deportation of 10 to 20 million undocumented immigrants in this country, I think of that frightful night in Arkansas where children and parents were severed in an unruly way. Their families were destroyed. Children were left by themselves without anyone to care for them because law enforcement had not thought that out.

I think of that frightful night in Arkansas and then I see it multiplied thousands of times across this country. That is not the right way to handle this issue. As Americans, we can be smart. Yes, we can be diligent and we can even be tough. But we can be tough in a way that reflects the values of who we are and how this Nation was created—by giving people opportunity and requiring responsibility.

We stand at a crossroads in this country. Over the last decade and a half, the Latino population has expanded in every area of our country, many of them coming here legally but some illegally. We are faced with a decision that gets to the heart of what values we hold dear as Americans. We have always said: If you work hard and you play by the rules, there is a place for you in America to raise your children and contribute to our great melting pot, to strengthen our communities, to be a part of this great land.

We are faced now with what to do with some who have broken the rules to come here but have since worked hard to provide for their families. I hope the Senate will give this very difficult question the reasoned and thorough debate it deserves, but that we will not forget the balance, the very intricate balance of American values that brings out the rule of law and the importance of the rule of law but also the desire and the compassion we feel. That is what the American spirit is all about.

I believe the Senate will agree to welcome those who came here illegally if they are willing to show another American value, and that is sacrifice. We all know a great deal about sacrifice as we see incredible Americans, men and women in the Armed Forces and all over this country, whether it is our emergency responders or others. If we see those who have come here illegally showing that willingness to exhibit that American value of sacrifice, then I think we as a body will be able to produce something to welcome them into our great society and our great Nation.

I urge my colleagues, as we continue in this debate, that we keep our heads calm and our minds open.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3206 TO AMENDMENT NO. 3192

Mr. KYL. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself and Mr. CORNYN, proposes an amendment numbered 3206 to amendment No. 3192.

Mr. KYL. I ask unanimous consent the reading of the amendment be dispensed with and that this be designated the Kyl-Cornyn amendment.

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

The amendment is as follows:

(Purpose: To make certain aliens ineligible for conditional nonimmigrant work authorization and status)

On page 329, line 11, insert ''(other than subparagraph (C)(i)(II) of such paragraph (9))'' after ''212(a)''.

On page 330, strike lines 10 through 15, and insert the following:

''(3) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

''(A) the alien is subject to a final order of removal under section 217, 235, 238, or 240;

''(B) the alien failed to depart the United States during the period of a voluntary departure order entered under section 240B;

''(C) the Secretary of Homeland Security determines that—

''(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

''(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to

the arrival of the alien in the United States; or

''(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(D) the alien has been convicted of any felony or three or more misdemeanors; or

AMENDMENT NO. 3207 TO AMENDMENT NO. 3206

Mr. CORNYN. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. CORNYN] proposes an amendment numbered 3207 to amendment No. 3206.

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

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

The amendment is as follows:

At the end of the amendment add the following:

This provision shall become effective 1 day after enactment.

Mr. KYL. Mr. President, Senator CORNYN and I introduced this amendment, which is very simple in its terms but we think very important. The essence of it is to say that criminals should not participate in the temporary worker program and path to citizenship program that is allowed for under the bill that passed out of the Judiciary Committee.

It seems rather elemental that whatever program we have for immigrants to this country, that they be people who have worked hard and played by the rules, as some people characterize it, that they be hard-working people who, other than perhaps coming into the country illegally, have been law-abiding citizens. That seems fairly elemental.

As a matter of fact, in the 1986 law that many have described as amnesty and few think worked very well, there was a specific prohibition of that law applying to people who had been convicted of a felony or three misdemeanors. That is the exact term that our amendment provides for. If you have been convicted of a felony or three misdemeanors, you are not eligible to participate in this program.

In addition, if you have been ordered by a judge to depart the United States and you have violated that court order, you would not be permitted to participate in this program. Those are the two key points.

There is one other element to it, and that is having to do with prior convictions of crimes and posing a threat to the United States. If the Department of Homeland Security Secretary determines that you have been convicted by final judgment of a serious crime and you constitute a danger to the United States or that there are reasonable grounds to believe you have committed a serious crime outside of the United States before you arrived or that you are a danger to the security of the United States, then you would not be able to participate in this program either.

Now, as I said, this seems rather straightforward. Why would we allow criminals to become citizens of the United States? Why, indeed? Why was this provision left out of the underlying bill? Whatever the reasons, it shouldn't have been. This amendment fixes that.

Why is it important? For one reason, we have an awful lot of criminals that have either come into the United States or people who have illegally entered the United States and then committed serious crimes, serious enough that they have had to be imprisoned in U.S. prisons. In fact, one of the exercises we go through every year around here is to try to get Federal funding under SCAAP, which is called the State Criminal Alien Assistance Program, SCAAP funding, to reimburse States and local governments for housing illegal-immigrant prisoners.

In the past, we felt that since it is the responsibility of the Federal Government to control the border and that has not been done, that when one of these people commits a crime and is convicted of that crime and imprisoned, the Federal Government ought to at least pay part of the expenses. It has usually been in the neighborhood of a fourth to a third of the expenses.

Part of what Senator CORNYN and I propose is that we would increase the amount of Federal support for the State and local governments for housing these criminal illegal immigrants.

How big is the problem? Of the 1.5 million State and Federal prisoners in 2004, over 91,000 were foreign nationals. Think about that: 91,000 criminals in prison were foreign nationals. About 57,000 in State prisons, about 34,000 in Federal prison.

The SCAAP funding gives us some idea of the number of these people. As I said, it has paid roughly about a third of the expenses when we spend about $600 million a year; unfortunately, last year we only funded $305 million. Even if it were funded at $700 million, it would represent about a third of State costs. That gives some idea of the magnitude of expense associated with the housing of these illegal immigrants.

With regard to the provision that deals with the so-called absconders, people who went before a judge and the judge said, for whatever reason, you must depart the United States, you are under court order to leave, but they don't, they just meld back into society, the Bureau of Immigration Customs Enforcement estimates that there are more than 400,000 such absconders and 80,000 fugitive criminal aliens with outstanding final orders of removal who are hiding in the United States. These are people who have committed serious crimes. There is no way that these people should be allowed to get on this path to citizenship or participate in this worker program.

The Bureau of Immigration and Customs Enforcement estimated earlier this month that the number of fugitive aliens in the United States is about 465,000. Fugitives are foreign nationals who have been ordered removed by a Federal immigration judge but failed to comply with the order.

From March 1 through September 30, 2003, which is when ICE began tracking fugitive apprehensions, there were 3,409 fugitives with final orders of removal who were apprehended. In the same period, 2004, they apprehended 7,239 fugitives with final orders of removal, which was an increase of 112 percent over that period in 2003.

The point is that there are more and more criminal aliens coming to the United States or people committing crimes while they are here or people who are being given orders to depart and who are not doing so.

I noted before that between 10 and 15 percent of the apprehensions of illegal immigrants today are people who have criminal records. And they are serious criminal records. We are talking about murder, homicide, kidnapping, drug offenses, rape, assaults, and the like. These are serious criminals.

In Arizona, my own State—the most recent figures are about a year old—almost one in six inmates is a Mexican citizen. I don't mean to suggest by this that Mexican citizens are somehow more prone to be committing crimes. I don't have the statistics for foreign nationals of other countries. But the bottom line is, from only one foreign country, we have almost one in six inmates in Arizona prisons of this one foreign country. If you add the others, the number, obviously, will be larger.

In March of 2005, Phoenix jails housed 1,200 criminal aliens who by law should have been deported. And even when deportation is ordered, according to a FOXNews report, about 60 percent of those orders are ignored. So you still have a huge number of people who are unaccounted for.

In Los Angeles, in that same period, 95 percent of all outstanding homicide warrants and 60 percent of outstanding felony warrants were for illegal aliens. This is according to a FOXNews report. Let me repeat that statistic. If you want to know why we have offered this amendment, in L.A., a year ago, 95 percent of all outstanding homicide warrants and 60 percent of outstanding felony warrants were for illegal aliens. That is an astounding figure.

So while it is true many people come to this country to work and provide a better living for their families and the only crimes they have committed are coming into the country illegally and using fraudulent documents for employment and other purposes, it is also true a large amount of crime is associated with this phenomenon of illegal immigration.

One of the first things we should do when we talk about enforcement of the law is to ensure we are not adding those criminals to the group of people who would be authorized to participate in what is going to be a very humane program of temporary worker, and for some a pathway to citizenship.

Let me cite two other statistics, and then I would like to yield to my colleague from Texas.

In September of 2004, of the 400,000-plus illegal immigrants who were ordered to be deported, 80,000 had criminal records. Now we do not know their whereabouts, including the countries from which they came. The point here is that many were from countries that we call countries of interest; that is to say, countries where terrorists come from. We know there are tens of thousands of illegal immigrants today who are apprehended coming from those countries and probably three times as many who are not apprehended. So in addition to people who have committed crimes in the United States, there is a significant possibility some of these people pose the kind of threat this amendment would go to as well.

Considering this group of so-called other than Mexicans, people who cannot simply be repatriated to Mexico who have to be sent to their home country, this number has increased dramatically. In 2000, the number was only 28,598, although that is a lot of people. In 2004, it was 65,000. In the first 8 months of 2005, that number grew to over 100,000. And we are told that the end result from last year, if my recollection serves me correctly, was about 165,000.

So the bottom line is that, No. 1, there are illegal immigrants who are criminals coming into this country. There are people who are illegal immigrants who, once they get here, are committing serious crimes. There are people who clearly could be suspected of being a danger to the United States. And finally, there are close to half a million people who have been ordered by a judge to leave the country for one reason or another under our laws that constitutes a serious enough offense that they are required to leave—who are absconders; they have decided to ignore the court order—and have not done so.

These are not the kind of people we want to become U.S. citizens. These are not the kind of people we want caring for our lawns or caring for our children or doing any of the other work that has been discussed here earlier today.

The bottom line is, there are plenty of people who can do those jobs. We do not want to be adding to the problems of crime in this country by accepting on an equal footing, with the other kinds of folks whom we are happy to have here working with us on a temporary basis, known criminals, people who should not be in this country under any circumstances, certainly not under the generous provisions of the bill before us. I hope when we have a chance to vote our colleagues will agree that, whatever else, criminals should not be participating in this program.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, this debate we are having on this important legislation is critical to our Nation. It is long overdue. I am glad we are finally talking about border security and immigration reform in a comprehensive way.

I know, as a member of the Senate Judiciary Committee, our chairman, Senator SPECTER, and the committee have worked very hard on this legislation. There is a lot of the legislation that I think is very good. For example, the border security component of the bill is very strong. I am proud to say that a good chunk of that came from legislation Senator KYL and I have drafted and has been out there for a year or more.

But I believe with all my heart that what has brought us to this day and this debate on the Senate floor is because Americans are terribly concerned that in a post-9/11 world, we simply do not have control of our borders. And they believe—and I believe they are correct—it exposes us to a danger and that the Federal Government has a primary responsibility of making sure our security interests are protected. As I said earlier today, border security is national security.

Now, how did we get here? I believe this is important because I do not want people to get the wrong impression. We are a proud nation of immigrants. All of us—no matter who we are, how we pronounce our last name, where we were born—came from somewhere else. America has been the net beneficiary of the fact that we have been that beacon of freedom and opportunity which has attracted people from all around the world. What distinguishes this country from the rest of the world is that once you come to America, you become an American, not because of the color of your skin or your religious affiliation or beliefs or the country where you were born, you become an American because you believe in the American ideal and you believe that everyone, no matter who they are, is entitled to the opportunity to achieve their own American dream. That is really one of the greatest legacies this Nation will ever have.

But we are also a nation of laws. To me, the toughest part about this legislation has been, how do we reconcile that vision—our American values of a nation of immigrants—with this important notion and ideal of a nation that also believes in the rule of law?

One of the reasons I so strongly support this amendment is that while we are a welcoming nation and we open our arms to people who want to come to America to achieve a better life—hopefully through legal avenues of immigration—we know there are some who have not come here through those legal avenues. What we are attempting to achieve in this legislation is to create legal avenues of immigration into this country.

Some people may decide they want to come here to become legal permanent residents and citizens and become Americans. Others might figure they want to come to this country on a temporary basis to work and to earn a living so they can support their family, so that they ultimately can return to their country of origin with the savings and skills they have acquired while working in the United States. But in a very real sense, these temporary workers do not intend to become Americans. They do not intend to sever their relationship with their country and their family and their culture.

The fact is, we need those legal workers here in the United States. We ought to create—and I do support creating—a legal avenue for them to come and work for a time and then to return to their country of origin. The fact is, that serves America's national interests. It also serves the national interest of those countries from whence they come. Indeed, one of the components of that, which we will talk about more as this debate continues, has to do with establishing a legal opportunity for people to work for a while in the United States and then to go home with savings and skills they have acquired here.

The reason that is important—and this should not be overlooked—is that no country could sustain the permanent exodus of its hard-working young people, which is what is happening to many countries south of our border today. Those economies are handicapped dramatically because of the massive immigration and permanent exodus of their young people to this country.

What we ought to be about, not only in our national interest but as a means of reaching out to those countries and enabling them to create economic opportunity there at home, is a way for them to build their own economy to create opportunity in their homeland.

While there are certainly people who will want to immigrate to the United States permanently, there are many others who, if given the opportunity to work for a while in the United States, would be more than happy to maintain their ties to their country and their culture and their family and return home and possibly to come back after a period of time.

But I say all that by way of predicate to say that we have a right as a sovereign nation not only to protect our own borders, we have an obligation to make sure the American people are not exposed to extraordinary danger that might occur if common criminals are given a free ride, inadvertently, in this bill.

Now, I do not imagine for a minute the authors of this bill intended that felons, persons who were guilty of three successive misdemeanors, people who are under final orders of deportation or criminal absconders—I do not actually believe the authors of this bill intended to grant an amnesty or to forgive those crimes or to welcome those people into the United States because I believe either these individuals, by virtue of the crimes they have committed,

should not be accepted into the United States—and we certainly have a right to control who comes and who does not come, and I think these people have disqualified themselves by virtue of their criminal activity—but there is also another segment of people, some 400,000 individuals, who have had their day in court, who have been ordered deported because they have had their due process, and they simply have failed to reappear so the law may be carried out. So they are what is called an absconder. And 80,000 of those some 400,000 people are criminal absconders, people guilty of felonies in the United States, people who have, since they have come here, disqualified themselves by virtue of their failure to comply with our law and no longer deserve to be able to live in the United States.

So I believe it is very important to make those distinctions. We ought to be able to distinguish between those individuals who have come to the United States because they do not have any opportunity, they do not have any hope of providing for their families where they live—we are willing to find a way to provide them a way to work in a legal system or, if they are willing to comply with the requirements of the law, to exit the country and return in a legal way and work and live in the United States, should they choose to do so and should they be qualified—but surely we can all agree there are certain persons who, by virtue of their misconduct, as evidenced by their unwillingness to comply with our laws and exposing the American people to danger in the process, that we ought to be able to protect the public safety and distinguish between people who have violated the immigration laws and those who have committed far more serious crimes or abused their rights and had the opportunity to be heard and are under final orders of deportation.

I will not go into any more detail other than just to say a few things about this amendment that I gladly join.

One of the reasons I am concerned that under the Judiciary Committee bill some people might perceive that what is granted is an amnesty is because while there may be some definitional disputes about what constitutes an amnesty, what I am confident of is that people will agree that in 1986, we had an amnesty. And I am confident the vast majority of people will agree with me, not only was it an amnesty, they will agree with me, I believe, that it was a complete and total failure. The tradeoff for the amnesty of 3 million people was to get worksite verification and employer sanctions, yet the Federal Government did not step up and provide that capacity. So what happened is that 3 million now becomes 12 million today. One reason I am so determined not to repeat the mistakes of 1986 is because I believe it would be a magnet for further illegal immigration.

This amendment is sensible. It provides that criminals can't get a green card, and those who have had their day in court and proven themselves disqualified from further opportunity to immigrate to the United States legally and become American citizens or permanent residents should not be included in what some might regard as a repetition of the amnesty that was issued in 1986.

It is with pleasure that I join Senator KYL in cosponsoring this amendment. We urge our colleagues to support us.

Mr. KYL. Mr. President, will the Senator yield for a couple questions.

Mr. CORNYN. Certainly.

Mr. KYL. First, does our amendment criminalize anything that isn't already criminalized?

Mr. CORNYN. Absolutely not. That has been one of the misconceptions or perhaps straw men that have been hoisted out there because some people have suggested we are trying to criminalize people who merely want to come to this country for economic opportunity to provide for their families. This does nothing of the kind. These are people who have already been convicted of felonies in the United States or three misdemeanors or have committed serious crimes out of the United States, or that the Secretary of the Department of Homeland Security believes are a safety risk to the American people.

Mr. KYL. So nothing in our amendment makes any new kind of conduct a crime. It simply deals with people who have already committed crimes?

Mr. CORNYN. That is entirely correct.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I think that is a very important point. I know there are many people who were concerned about the House bill. Much of the marching that was done last week was against the House bill on the grounds that it was creating new crimes and even felony crimes. Nothing in either the legislation that Senator CORNYN and I have introduced nor in this amendment creates any felony offense, nor does this amendment create any misdemeanor offense. It simply says people who have already committed crimes should not participate in this program or who have violated a court order of removal.

There are millions of people who have come to the United States illegally but who otherwise, other than perhaps using false documents, have worked hard and abided by the rules. It is not in their interest to violate our laws. Yet when the subject is discussed, it is easy to roll all of the people up in one group and suggest that good and decent people are no better than people who have committed crimes, and they ought to all be treated the same. And some people have even said they ought to all be made criminals and thrown out of the country.

While we may not like the fact that we have permitted people to come into this country illegally, I believe it does a great injustice to people to assume they are all alike and to bunch them up into the same group. We need to extract out of this group of people who all of us intend to try to treat in the most humane and responsible way we can, however, the ultimate framework of a guest worker program or other programs are developed, we need to separate that group of people from those who have committed crimes, people whom we don't want to be here. That is the purpose of our amendment. We have decided it is important for us to distinguish between the people who do not deserve to be automatically eliminated from consideration for whatever program is going to be adopted here, those people who have actually committed crimes and whom we would not want to bring into the country if we had a choice in the initial instance, in other words, people who would be admittable in the country, certainly people who would be deportable for having committed these kinds of crimes. So clearly if they should not be admitted into the country or they should have been deported for committing certain kinds of crimes, it wouldn't make any sense to allow them then to participate in a guest worker program or to put them on the path to citizenship.

That is the essence of our amendment. Of all of the things we disagree about—we understand there are many—we think it is important to distinguish between that group of people who otherwise have been law-abiding people and the group of people who have committed crimes. And ironically, most often the crimes these people are in jail for are committed against other immigrants, frequently illegal immigrants. They rape them. They rob them. They beat them up. They hold them for ransom. In all of the big cities in the Southwest, the largest number of crimes are committed by illegal immigrants against primarily illegal immigrants. So to help those who are otherwise innocent from being further preyed upon, we need to remove from this country, not allow them to participate in the program, to remove those people who would continue to prey upon the innocent. That is what our amendment would do.

I hope when it comes time to vote, our colleagues will recognize that whatever other disagreements there are, these are the people who should not be allowed to participate in the program.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, before commenting on the pending amendment, I ask unanimous consent that Senator HAGEL be added as a cosponsor to the committee bill.

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

Mr. SPECTER. First, I thank Senator KYL and Senator CORNYN for coming to the floor to start the debate and

offer an amendment. We are trying to push ahead with this bill. It is appreciated that they have come early. I am advised that the other side of the aisle would not be prepared to vote on this amendment today or tomorrow. What we are trying to do is to line up a series of votes for Monday afternoon. I am advised that Senator BINGAMAN wishes to offer an amendment to add resources to Border Patrol, and on the surface, without final commitment, it looks as if it is an acceptable amendment. We want to have an opportunity there. Senator ALEXANDER has already spoken about an amendment which has a number. It has not yet been called up.

We are anxious to move ahead. It is always difficult getting started on a bill, but it had been my hope that on a Thursday afternoon, when we went to this bill yesterday, had opening statements and had a full afternoon of discussion and extensive discussion today, that we would have been prepared to have amendments and have some votes. Thursday is supposed to be our late night. Maybe more accurately stated, our late night, if we ever have a late night. Well, we are not going to have a late night tonight because there is not a whole lot we are going to be able to do.

I believe the thrust of the Kyl-Cornyn amendment is a good one.

If I may have the attention of Senators KYL and CORNYN while I am saying good things about them.

Mr. KYL. We are all ears.

Mr. SPECTER. I believe the thrust of the amendment is a good one. I want to take a look to see what is meant by ''voluntary departure'' under 240B. But it looks to me when you want to exclude the criminal class from being on the path for working in this country, the citizenship path, that is desirable.

It is my hope we can move ahead and transact some business and hear some amendments and hopefully move to votes at the earliest possible time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I see Senator BINGAMAN. I will be brief in my remarks because I assume he wants to speak. If I could say to the chairman, who was here earlier, I hope very much we can begin to move to votes. I spoke earlier today about an amendment which I filed which is amendment No. 3193. It is filed at the desk. It already has the cosponsorship of Senators CORNYN, ISAKSON, COCHRAN, and SANTORUM. I ask unanimous consent that Senators MCCONNELL and MCCAIN be added as cosponsors.

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

Mr. ALEXANDER. The majority leader, Senator FRIST, is also a cosponsor.

While I do understand and am disappointed by the fact that we are not going to be moving to votes tonight, this is not a new idea that I have made in my amendment. My first speech on the floor of the Senate in 2003 was about the importance of becoming American, how in our country we are unique because we do not base our backgrounds on race or ancestry but on a set of ideas, and how important it was for us to put the teaching of American history back in its rightful place in our schools so our children can grow up learning what it means to be an American.

Senator REID, the Democratic leader, joined me on that. Senator KENNEDY joined me and Senator REID. He and I are working together to create Presidential academies for students and teachers of American history. We are trying to take the National Assessment of Educational Progress and make sure that it includes another way of putting the teaching of American history back in the right place in our curriculum.

The reason we do that is because our common schools were created to help immigrant children learn the three Rs and what it means to be an American. Because if you don't know the principles upon which our country is based, it is difficult to become an American. We have this advantage over other countries in the world who base their nationality on race or on the color of their skin or their ancestry. We don't do that. It is important to become an American by understanding the principles of our country. We agree on that. It is those principles that we debate here.

This is not a debate about who is pro or anti-immigrant. We are all pro-immigration because that is an important part of our character. But we have more than one principle at issue here. The first one is the rule of law. We are all for the rule of law because people who come to this country don't come to a country where we don't stop at stop signs and we don't observe contracts and we don't follow the law. We follow the law here or there are consequences. We have those principles. And we have the principle of equal opportunity. And we have the principle of a free market or laissez faire. We have the principle above the President's desk of E Pluribus Unum. Our great achievement is that we have taken this magnificent diversity and forged it into one country. We are the United States of America, not the United Nations.

Therefore, the amendment that I had filed today and is ready to be voted on tonight or tomorrow or Monday, whenever we are ready, ought not to be very controversial. It is simply to help the half million to a million people from other countries who are legally here and ready to become citizens, to help them become Americans. It does that by providing them with $500 grants so they can learn our common language. It doesn't make them learn it; it helps them, if they want to learn it. It says to those who become fluent in English that they may become citizens in 4 years instead of 5. It doesn't penalize them. It gives them rewards. It gives grants to organizations to help them learn our history. It codifies the oath of allegiance George Washington and his troops took and that millions of Americans have taken which basically says I am not Scotch-Irish anymore, which my family was. I am an American. I am proud of my Italian heritage, but I am proud to be American. That has been our history.

Senator SCHUMER and I in two Congresses have introduced legislation making that oath a law, not just some administrative dictum that someone could mess around with, but put it right up there with the Star-Spangled Banner, the National Anthem, and other great symbols of America.

My amendment establishes a reward to recognize the contributions of outstanding new citizens. It asks the Department of Homeland Security and the National Archives to develop ways to dignify and celebrate these wonderful ceremonies such as the one the President attended on Monday where 30 people stood up and said: I have been here 5 years. I have demonstrated good character. I have learned English, and I am proud of where I came from. But I am prouder to be American. I swear allegiance to this country, the same oath George Washington and the officers took at Valley Forge in the year 1778 and which new citizens have taken in this country ever since then.

We could talk about border security. It is important, and that is the rule of law. We can solve that problem. We know how to do that. We can agree on that. We can talk about how many guest workers we want. We already authorize 500,000 or more work visas a year. Perhaps we need more. We can figure that out. The distinguished Senator from New Mexico and I have been working for a year with the National Academy of Sciences to make certain that we in-source brainpower so we can keep our jobs from going to China and India. I would like, through this legislation, to make it easier for the brightest people in the world to come here and help us create our high standard of living.

I mentioned earlier in the day that the top three jobs at the Oak Ridge National Laboratory, our largest science lab in America, are held by three foreigners with green cards from England, Canada, and India. The Senator and I have worked together to recapture our advantage in supercomputing in America so that America can be the leader in computing. Who runs that program? It is a citizen of India who is living here. Not only is there nothing wrong with that, but he is here helping improve my standard of living and the next person's standard of living.

I want our discussion to be a comprehensive discussion. I want us to deal with border security. That is the rule of law. But I want us to set rules for welcoming the people who temporarily work here and study here, but I also want us to make sure we do the most

important thing and remember those three words up there in the Senate Chamber, ''e pluribus unum.'' They are not there by accident. They mean that we need to devote extra effort to making sure that those who come here legally also become Americans. That is the real limit on the number of new citizens who can come here—whether they can become a part of our culture, a part of our country, and become Americans.

If we don't do that, we are nothing more than a united nations; we are not the United States of America. I think there is broad agreement in this body about that. That is why Senator SCHUMER and I introduced the oath of allegiance bill. That is why myself and others are working on helping to put American History back in our schools for children. I am ready to vote on this amendment tonight or tomorrow, but I certainly hope the chairman and the leaders on both sides of the aisle would allow Senator BINGAMAN's amendment and my amendment and others to be voted upon as soon as possible.

The American people are expecting us to deal with immigration. We are here and we are ready to do it. Let's get on with it. It is time to stop debating and start acting, and a good way to start would be to help prospective citizens become Americans. That would finish a comprehensive bill.

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

Mr. BINGAMAN. Mr. President, I ask unanimous consent to lay aside the pending amendments so that I may offer an amendment.

The PRESIDING OFFICER (Mr. ALEXANDER). Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3210 TO AMENDMENT NO. 3192

Mr. BINGAMAN. I send an amendment to the desk to amendment No. 3192.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 3210 to amendment No. 3192.

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

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

The amendment is as follows:

(Purpose: To provide financial aid to local law enforcement officials along the Nation's borders, and for other purposes)

At the appropriate place, insert the following:

TITLE ____—BORDER LAW ENFORCEMENT RELIEF ACT

SEC. __01. SHORT TITLE.

This title may be cited as the ''Border Law Enforcement Relief Act of 2006''

SEC. __02. FINDINGS.

Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation's borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed $89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region

SEC. __03. BORDER RELIEF GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of Homeland Security.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. __04. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in this title shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

Mr. BINGAMAN. Mr. President, the purpose of this amendment is to assist

border law enforcement agencies—that is, local law enforcement agencies—in addressing border-related criminal activity.

Border law enforcement agencies incur significant expenses in dealing with crimes, such as human smuggling, vehicle thefts, drug trafficking, and the destruction of private property. These crimes occur and this enforcement is required because of their proximity to the international border and because of the failure of the Federal Government to adequately secure that international border.

According to the study by the Border Counties Coalition, criminal justice expenses related to immigration alone exceed $89 million a year.

Mr. President, it is time that the Federal Government help these border communities cover some of those costs. Specifically, this amendment that I have offered, which is based on the bill I earlier introduced entitled ''the Border Law Enforcement Relief Act of 2006,'' would establish a grant program within the Department of Homeland Security to help local law enforcement situated along the northern and southern borders to obtain the resources they need to secure our border communities. It would authorize $50 million a year to help law enforcement hire additional personnel, obtain necessary equipment, cover overtime expenses of their personnel, and cover transportation costs of their personnel.

Eligible applicants would include agencies serving communities within 100 miles of the U.S. border—the border with Mexico or with Canada—and any other department located outside of that jurisdictional limit if it is designated by the Secretary of Homeland Security as a high-impact area. The designation would be made because that area is greatly impacted by the flow of illegal immigration, drugs, and other such problems.

Securing our Nation's borders is the responsibility of the Federal Government. However, as we all know, the Federal Government has failed to provide adequate security along our international borders. The result is that local communities are having to pay for a variety of costs, from health care to law enforcement. It is wrong to place this additional burden on these local communities. They do not have the resources to deal effectively with these increased burdens.

It is time that Congress recognizes the tremendous burden with which local law enforcement agencies along our borders have been saddled. I hope my colleagues will support this important measure.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 3193

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the pending amendment be set aside and amendment No. 3193, which I filed at the desk, be considered.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. ALEXANDER] proposes an amendment numbered 3193.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 3206

Mr. KENNEDY. Mr. President, a short while ago, Senators KYL and CORNYN offered an amendment. They claim that the committee bill would allow criminals to become permanent residents under the committee bill, and this is not correct.

The committee bill requires all applicants to undergo criminal and security background checks, and all applicants must also show that they have not committed any crimes that make them ineligible under our immigration laws.

As many Senators know, Congress passed sweeping changes to our immigration laws, and just about any crime makes one ineligible for a green card. This includes aggravated felonies, crimes of violence, drug crimes, crimes of moral turpitude, money laundering, murder, rape, sexual abuse of a minor, drug trafficking, possession of explosives, theft offenses, child pornography, forgery, counterfeiting, bribery, perjury, and many others.

Anyone who has committed any of these crimes cannot—cannot—and will not get a green card under the committee bill.

What the amendment does, though, is undermine the earned citizenship program in the bill. Millions of Mexicans, Central Americans, Irish, and nationals from other countries would be prevented from applying for legal status not because of criminal crimes but status violations. The goal of comprehensive immigration reform is to encourage illegal workers to come out of the shadows, be screened, and be given work permits, and if they are on the track to eventually being eligible for citizenship, they have to earn it. This is not an amnesty program. No one is forgiven. Anyone who wants to get on this path has to pay a fine, demonstrate that they have a work record, also demonstrate that they paid their taxes, and then get to the end of the line of those who want to come to the United States, and for 11 years meet those responsibilities.

That is one part of this legislation. This amendment that is offered would end the possibility for earned legalization. That would be the effect if this amendment is accepted.

If the proponents of the amendment are interested or concerned just about crimes, other crimes being added to the list, we are ready to talk with them, and we will try and engage them in a conversation and see if that is their purpose. If their purpose is to undermine a key element of the proposal, that would be unacceptable, and we will have the opportunity to express our views with a vote in the Senate.

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. KYL. 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. KYL. Mr. President, there is one more thing I wanted to say this evening about the amendment Senator CORNYN and I offered, an amendment which provides that criminals cannot participate in the program that we adopt here—whatever that program is—in terms of being temporary workers or being put on the path of citizenship, or however this body ultimately defines what happens to immigrants who have come here illegally, or so-called future flow workers. I think almost everybody can agree it shouldn't apply to criminals, or to people who have violated a court order to depart the country.

I made the point earlier, and I want to reiterate it, that it is important to separate out the group of people who have come here, albeit illegally, to do hard work and not otherwise violate our laws, except perhaps using fraudulent documents. Those people end up being the primary targets of other illegal immigrants who commit heinous crimes against them.

So one of the reasons for denying these criminals the right to participate in the same program is to get them away from the people who are most susceptible to being preyed upon.

We talked to chiefs of police, to sheriffs, to the Border Patrol, to other law enforcement officials, and they have different statistics, but by and large they all agree that predominantly the serious crime in their communities, particularly large communities, is immigrant on immigrant and it is mostly illegal immigrant. And the crimes that are committed would just break your heart.

There are stories like this. Immigrants pay a couple of thousand dollars, roughly $2,000 is the going price now, to a coyote to be smuggled into Arizona from Mexico. They may have had to pay different people along the way on the bus up to Altar, where they could then come across, or wherever. But the fee is probably in the neighborhood of $2,000.

Before they come across somebody comes and says it is now going to cost you an additional $500 or, I am sorry, we can't do it. So they have to somehow communicate to somebody else in their family or a friend to come up with some more money.

They then attach themselves to the coyote who brings them across the border. A lot of different things can happen. First of all, another group vies for that group of illegal immigrants because they are all worth money. We had a shootout on Interstate 10 between Tucson and Phoenix involving two vehicles with illegal immigrants in them with two different coyote gangs. They were having a shootout on the freeway, and people were killed and injured, over who was going to control the load of immigrants because that is value. You could hold the illegal immigrants here in a safe house and tell them that until they come up with another $1,000, let's say, they are going to be held hostage, basically, or the coyote or his friends will call the police or Border Patrol if they don't come up with the money.

Women are forced to commit improper acts. There are assaults, sexual assaults. There is a great deal of crime perpetrated on these illegal immigrants. If they have not been beaten or raped or robbed or held ransom for more money, then what happens is they are waiting in the safe house and the Phoenix Police Department shows up at the safe house because they have gotten a call of a disturbance in a house.

It wasn't a disturbance at all. It was the coyote calling the Phoenix police because he has another load coming in that night and he needs to get rid of these people. He has gotten all he can out of them. He sucked them dry. They don't have any more money. He has taken all they have. They don't dare go to the police. Now he has called the police and said there is a disturbance. They show up at the house and pick up these illegal immigrants. If they are from Mexico they are put on a bus back to Mexico.

That is what can happen to these people. These are the ones who do not die in the desert and who are not abused some other way. We cannot allow the criminal element here, people who have committed crimes, who are criminals, to continue to prey on these people. It is one of the reasons our amendment says that criminals cannot participate in this program.

There is another reason. Citizenship in this country is a tremendous privilege. Anyone who knows immigrants who have come here or who has participated in a swearing-in ceremony knows how much legal immigrants value this privilege. As I said before, my grandparents came here and they were so proud of their American citizenship. They felt so privileged to have been able to come here. It is not fair to them or for the millions who are waiting in some country, waiting to come here and who have to attest to their good character. They have abided by the laws. They have committed no crimes. To then see somebody else who has not only entered the country illegally but also in some other way has committed crimes or has refused to depart after a judge's order, to then be able to participate in a legal program allowing them to become a temporary worker or be on a path to citizenship—what kind of a signal does that send? It cheapens American citizenship. It cheapens legal permanent residency.

It is wrong to simply say that because we have a hard time with the amount of people who have come here illegally, we are not going to differentiate among them in any way, we are just going to take them all in and let them all get on this path to citizenship. That is wrong. I do not think the American people will allow us to permit that kind of individual to participate in this program.

That is what the underlying bill allows. There are a lot of things wrong with this underlying bill. This is just one of them. But I hope with each of these things that we point out, our colleagues will come to realize that there is an answer here somewhere, but it is not every provision of this bill. So, piece by piece, we will focus attention on this bill to try to determine where we can make changes so at the end of the day we have a good product—comprehensive immigration reform, enforcement, and an opportunity for people our society needs to work here on a temporary but legal basis.

If we can do that, we will have succeeded. But if we simply pass a bill that has a tremendous number of flaws in it, we will have failed. I hope we can correct this first flaw with the amendment that Senator CORNYN and I have offered to at least ensure that criminals can't participate in this program.

Mr. SESSIONS. Mr. President, will the Senator yield?

Mr. KYL. I yield the floor.

Mr. SESSIONS. Well, just for a question. I want to first say how much I value the insights of the Senator from Arizona into this important issue. On the Judiciary Committee he is one of the Senate's most knowledgeable members on immigration issues, and one of the best lawyers here. I think he has raised a very troubling point.

This is part of the legislation that is moving forward, for reasons I am not quite sure of. But it does seem to have moved too fast, and it has a lot of real problems—almost anybody would agree.

But this deal about crime is a very important issue. I have had the sense that we may be seeing more criminality on the border. Sheriffs from Arizona and Texas came up and told us about the rising crime rate, the increased number of assaults on their people and Federal people.

I recall a recent trip I just took with the Armed Services Committee to Europe. I met with General Jones, who has Africa. He talks about the border areas that tend to be the areas that are the most dangerous.

Is the Senator concerned that we are creating areas in the country, as a result of lack of enforcement around the borders, that are really more dangerous than other parts of his State?

Mr. KYL. Mr. President, I would say to the Senator from Alabama, that is exactly the case. I would cite two parts of the testimony before our Subcommittee on Terrorism, Technology and Homeland Security.

We had the U.S. attorney for Arizona testify that just from last year, the number of assaults at the border has gone up 108 percent. It is not just on law enforcement officers, but a lot of the assaults are perpetrated against them. I intended to get the statistics on the number of homicides. But there are homicides and then there are an awful lot of other kinds of assaults. The border, in many places, is becoming a very violent place.

There is one good news element that was confirmed by the testimony that was taken in the committee. The reason for this increased violence, they said, was that the Border Patrol was actually improving its ability to control territory. Territory that previously had been the sole jurisdiction of the cartels and the coyotes was now being contested by law enforcement. So naturally they were fighting back.

The bad news, of course, is they fight back with high-caliber weapons. They are organized. It is a very dangerous place. As a result, our officers are seeing assaults every day.

The other thing that this testimony confirmed was that it is not just nice people coming across the border, it is over 10 percent who are criminals. I mean, if you stop and think about it, if you have 600,000 people coming into the country illegally who are apprehended, so it is maybe three times that many who are coming in who are not apprehended, and over 10 percent of them are criminals, you are talking about tens of thousands of people who have decided that this is a good way to get into the United States, come in as an illegal immigrant. These are not the kind of people we want in our country.

When you look at the type of crimes that the people who have been apprehended have been accused of committing or have been convicted of committing, it is homicides, it has been rapes, serious assaults, drug crimes—serious crimes. So not only is the border becoming more violent, but the people coming into the United States are an increasingly criminal element, and they are continuing to commit crimes in our cities, in particular against other illegal immigrants. That is why we believe it is very important that at least one group that ought not to be able to participate in whatever program we adopt is this group of criminals. That is another reason our first effort should be to get control of the border.

Forget the problem of people coming here to work. If for no other reason, you want to keep the people from terrorist countries out, keep out the people smuggling methamphetamine into the country, and keep people with criminal records out of this country.

That is why many of us think the first thing we ought to do is get control of the border.

I went on a little long in answering the question.

Mr. SESSIONS. That is good. I wanted to follow up because the Senator mentioned methamphetamine. I had an opportunity today to meet with the executive director of the Alabama District Attorneys Association. Through Alabama laws and the Federal law we passed pseudoephedrine is not so available now, from which methamphetamine is being made in the United States. He just told me casually this morning, now all the methamphetamine is coming in from Mexico.

You are on that border. Do you sense that there is a growing problem with methamphetamine being brought in across the unsecure border?

Mr. KYL. I would say to the Senator from Alabama, this is what we have been briefed. The President was at the border. He was briefed likewise on this phenomenon. Sheriff Larry Dever from Cochise County, Sheriff Ralph Ogden from Yuma County, they both told me this. The chiefs of police in Tucson and Phoenix told me this, the Chief of the Border Patrol in both the Tucson and Yuma sector, all of them agree that methamphetamine is now the No. 1 drug coming across and, by the way, also underneath—in some of these tunnels. We need to make that a crime as well. It is not even a crime to dig a tunnel under the border. But we have an amendment that hopefully will cure that. But now a backpack of methamphetamine is said to be worth, by these law enforcement officials I identified to you, to be worth between a quarter of million and a half million dollars. You can take a poor, illegal immigrant, many of them in a group, and put this backpack on each of them and give them $10,000—more money than they have seen in a long time—and say: You scoot across the border and you'll be met by XYZ. That is a cheap way to get it across. They are not making it as much in Arizona, in fact, anymore. It is all coming across the border, as you pointed out.

Mr. SESSIONS. One more question because I think this is very important for all of us here who strive to be responsible to the citizens we serve, and that is, we have had some amendments, some of which were accepted that I offered, that would increase bed space or increase Border Patrol agents and that kind of thing to improve enforcement. That is part of the bill that is before us. But I have been here long enough to get a little bit dubious about some of these things and learn the ropes around here.

One of the things that I have learned is, just because you put something in an authorization bill, that you authorize a barrier, you authorize more patrol officers, you authorize more detention space, does not mean it will actually be created and done.

Mr. KYL. Mr. President, I say to the Senator from Alabama, I have to summarize this answer because welling up in my chest is a big complaint about the Congress, about the Clinton administration, about the Bush administration. Let's be honest. Nobody has done their job completely here.

We authorized.

Mr. SESSIONS. That is the committee you serve on, Judiciary, the authorizing committee, and that I serve on.

Mr. KYL. That is right. Senator FEINSTEIN and I got an amendment passed in 1996 to double the number of Border Patrol agents. It passed the Judiciary Committee, passed the Congress. It is an authorization. Do you think that in 5 years we had double the Border Patrol agents? No.

We couldn't get the administration to ask for enough funding in the budget, and, of course, if it is not asked for, then Congress is loathe to appropriate. So it took us about, as I recall, 7 years or maybe 8 years to get the number of agents doubled. We have succeeded in doubling them and adding another 2,000 or 3,000 on top of that. But it took far longer than it should have.

We have authorized SCAAP—the State Criminal Alien Assistance Program—that reimburses the jails and prisons in your State, my State, and other States for the criminal aliens housed in those prisons. The program is authorized. This administration this year requested in the budget exactly how much money for this program? Zero, nothing; same as last year. Congress had to find the money. And we ended up appropriating about $300 million, which is less than half of what we should have. Had we done $700 million, we would have reimbursed the States about one-third of their expenses. We only did $305 million, as I recall.

Mr. SESSIONS. Isn't it a Federal responsibility?

Mr. MCCAIN. Mr. President, regular order.

Mr. SESSIONS. Mr. President, I believe Senator KYL has the floor. I was asking a question.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Arizona, Senator KYL, has the floor and has yielded for a question.

Mr. KYL. Mr. President, the bottom line is that many things we have authorized—additional Border Patrol agents, additional equipment, additional aircraft, radar, UMVs, cameras—neither the President nor the Congress over the years has seen fit to provide. We have gotten a lot more in recent years than we have in the past. But the bottom line is merely because we authorize something doesn't necessarily mean it is going to be appropriated.

It is not just a matter of money. Sometimes it is a matter of enforcing laws that we have on the books—such as the employers who find it very difficult to differentiate fraudulent documents and, therefore, they end up hiring illegal immigrants. But we don't enforce that law. It is hard to blame the employer, but the Government isn't trying to enforce it, either. Simply authorizing something doesn't necessarily mean it will happen.

Mr. SESSIONS. Mr. President, I ask the Senator, isn't that in fact what happened in 1986? We passed the amnesty bill, and the American people were told this would be a one-time thing, it would solve this problem, and we are going to have enforcement on the border. That was promised. But, in fact, it never occurred. The monies were never appropriated. The President never aggressively asked for the resources necessary to make this occur, and we ended up not enforcing the law.

Mr. KYL. Mr. President, I say to the Senator, my perception is that having passed the law, one reason people referred to it as amnesty is because it was not enforced. There was a commitment to enforce it. I don't know the reasons why it wasn't enforced, but in many respects it was not.

The key thing we need to do here, since the American people are skeptical of our ability and our commitment to enforce the laws, in order to be able to adopt the guest worker program and deal with the people who are here illegally and have a work program, in the future we are going to have to demonstrate to them we have the ability and we will make the commitment to enforce whatever law we end up adopting.

Mr. SESSIONS. I thank the Senator.

Mr. President, I wish to make a few comments.

I see Senator MCCAIN. Maybe there is time he wants to use.

The PRESIDING OFFICER. Is the Senator from Alabama seeking recognition?

Mr. SESSIONS. I seek recognition from the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, this is a very real concern Senator KYL and I have talked about. The concern is we are basically telling the American people that in good faith we are going to recognize that somehow we failed to follow the law, that we failed to enforce the law and create a workable system. The last time in 1986 we said we had a million people here illegally, and we admitted we were going to give them amnesty, and that we were going to try to create a system in the future that would not lead to these kinds of problems again.

What happened was 3 million people showed up—not 1 million—and they claimed amnesty. We never enforced the borders. Here we are 20 years later, and we have an estimated 11 million people, although I think one of the survey firms in the country said there may be 20 million people here. We will find out, I guess, when this passes.

But the question is, What will we do to ensure with this implied promise we are making to the American people that won't happen again?

The truth is, President Carter, President Reagan, President Bush, the former, President Clinton, and this President Bush have not come to the Congress and said, Congress, we are not getting the job done on the border. Give us more money and we will fix it. We have this problem. We need a computer. The employers are telling us they can't ask the proper questions because of this law or that law. The employment enforcement is not working. Help us change the law, Congress, so we can create a workable system. They never asked for it. They never did anything to suggest that. The system has gotten completely out of control.

How do we know, when we pass this legislation and immediately provide for the benefit of those who come illegally new rights and privileges and a path that would lead them straight to citizenship, how do we know we are not going to have the problem again?

That is all I am asking. I don't know how you can do it.

You could say, Well, this law won't take effect until we have a border system that works. Is that the way we will do it? I am not sure.

But the American people have every right to be skeptical. They have every right to be skeptical. They have a right to wonder if we are at all serious about what we are saying here.

I was a Federal prosecutor for 15 years. That is what I have done the biggest part of my professional life. I tell you it breaks my heart to see a legal system so ineffective. What has been going on here is a mockery of law.

Time and again we come back and we admit we haven't enforced the law. What good is the law if it is not enforced, let me ask you. You can't make everybody happy. You can't do everything for everybody.

I believe very strongly that this Nation is a nation of immigrants. I am perfectly prepared to approve allowing quite an additional number of people to come into this country legally. But in exchange for that, I think we have to have the balancing act of a legal system that works so we do not continue to see the large numbers of people coming in illegally.

I will summarize again what I have said before. I think we can do it. This is not that difficult. We increase border security, we use barriers, we use the virtual fence concept, we use computer systems and biometric identifiers, the United States VISIT Program, which needs to be completed, and then we use enforcement in the workplace.

As C.J. Bonner—people who have followed this heard him speak out before. He represents the Border Patrol agents. He said that absolutely we can do this. It is not going to cost a fortune and it is not going to break the Treasury of the United States, but it is going to cost some money.

If we will step it up and do these things, we can create a tipping point where people come into the country legally instead of illegally. That is it.

Right now, they come illegally. Why? It is easier to come illegally, that is why. People do what they are allowed to do.

I believe we can make this system better. I believe the legislation that came out of committee moved far more aggressively to the amnesty direction in the bill that Chairman SPECTER started out with.

The legislation that is pending before the Senate today does not represent the settled opinion of the American people. Once they find out about it, they will not be as happy as we would like them to be.

It is time to slow down, listen carefully to what is occurring, make sure we have a plan in place that will guarantee enforcement on the border, that will guarantee workplace enforcement and a plan that will allow more people to come in a legal way, an effective way, using a biometric identifier so they can come through the border and maybe go back and forth every weekend if that works for them and create a system by which this country can decide how many workers and what category we need so that if we have a downturn in our economy, we are not driving Americans out of work in large numbers. Those are things that a rational country would do.

This legislation, as presently configured, does not do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. I thank the Senator from Alabama. He is a man of passion and commitment and willing to stay late no matter what to make his points and advocate his positions. I always enjoy doing business with the Senator.

I want to make one comment; that the President of the United States today in Cancun made a very positive statement about what we are doing in the Senate. I am very appreciative of his comments. He said that we have to obviously put people at the back of the line that want to be citizens, but he also felt very strongly that we needed a viable guest worker program.

I am hoping over the weekend we can all think about our positions and perhaps get into some associations so that we can resolve this issue amongst everyone because it seems to have generated not only a lot of attention but a lot of controversy as well, particularly in the media.

I know we are all trying to achieve the same goal of securing our borders and at the same time resolving the issues of how people can come here and work legally if they are both qualified and needed, and, of course, addressing the issue of the 11 to 12 million people who are already here, some of them coming yesterday, some of them here 50 or 60 years.

Ms. MIKULSKI. Mr. President, I have an amendment to fix a broken bureaucracy and help noncitizens who are serving in our military become citizens of the United States.

There are over 40,000 non-U.S. citizens serving in the U.S. military today. Many want to become U.S. citizens but are caught up in red tape and paperwork, bureaucratic run-arounds and backlogs. That is wrong—many of these young people are on the front lines in Iraq, Afghanistan, and throughout the world fighting terrorists. They are focused on fighting the enemy; they shouldn't also have to fight the bureaucracy just to become a citizen of the country they are fighting for. My amendment makes sure that it is easier and quicker for non-U.S. citizens serving in our military to become citizens.

This amendment is called the ''Kendell Frederick Citizenship Act of 2005.'' Why? Because Kendell Frederick's death in Iraq shows clearly how broken our bureaucracy is, and why it is so important to pass this bill. Kendell Frederick was an Army soldier from Maryland killed in Iraq on October 19, 2005. He was 21 years old. Kendell was killed by a roadside bomb on his way to be fingerprinted to become a U.S. citizen. But he was also killed by the botched bureaucracy of the U.S. Government: by their incompetence, by their indifference, by their ineptitude. This is inexcusable.

Every military death in Iraq is a tragedy, but this one did not need to happen. Kendell died in Iraq, fighting for America. Yet he wasn't born in America, he was born in Trinidad. He came to this country when he was 15 years old. As many who come to this country to pursue the American dream, he was filled with hopes about his future in this country. He got an education and graduated from Randallstown High School in 2003. While in high school, he decided to join ROTC. After he graduated from high school, he decided to join the Army with hopes that he would be able to go back to school.

In the Army, Kendell was a generator mechanic assigned to a heavy combat battalion. His job was to keep all of the generators running, which kept his battalion running. Kendell wanted to become an American citizen. Yet a series of bureaucratic screwups and unnecessary hurdles prevented that—and cost him his life.

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

After that, Kendell's application was derailed by immigration three times. First, after his mother checked the

correct box saying Kendell was in the military, Immigration sent the application to the wrong office, not the office that handles military applications.

Second, Immigration rejected the fingerprints he sent them, with no explanation. Kendell had his fingerprints taken when he joined the military. He had an FBI background check for the military. We have high standards to be in the U.S. military. There was no reason Immigration could not have used the fingerprints taken when he joined the military, but they refused.

Third, and finally, Kendell was told to get his fingerprints retaken in Maryland—but he was in Iraq fighting a war. His mother called 1–800 Immigration. That's supposed to be the HELP line. She told them: My boy is in Baghdad, he can't come to Baltimore to get fingerprinted. She would have loved for her son to come to Baltimore, but he was fighting in a war, fighting for America. Immigration told Kendell's mom there was nothing they could do. They were wrong. That was the wrong information. They were no help.

On October 19, Specialist Kendell Frederick was traveling in a convoy to a base to get fingerprinted. He did not usually go on convoys, but that day he was in the convoy. Kendell Frederick was killed when a roadside bomb struck that convoy. He was granted his United States citizenship a week after he died. He was buried in Arlington National Cemetery. Kendell was trying to do the right thing, yet he was given wrong information. He got the run-around. His sergeant tried to help, but he didn't know all the rules. It was not his job to know the rules—he was fighting a war. Kendell's mother did the right thing: she tried to cut through the bureaucracy, making phone calls, sending letters. She was diligent and relentless. The system failed—again and again. And a wonderful young man lost his life.

Kendell's mother, Michelle Murphy, could have just sat there. She could have boiled in her rage, but, no, she wanted to do something with her grief. When I spoke with her, she told me she didn't want any mother to have to go through what she went through, what her son went through. Service members and their mothers should not be worrying about what box to check on a citizenship application, which of many addresses is the right address to mail it to, or where to get fingerprints taken. When a service member is fighting for America, mothers have enough to worry about. Service members have enough to worry about.

This amendment makes it easier for military service members to become citizens. The provisions of this amendment cut through the red tape. First, it requires Citizenship and Immigration Services, CIS, to use the fingerprints the military takes when a person enlists in the military, so a service member doesn't have to keep getting new fingerprints. Second, it requires the creation of a military Citizenship Advocate to inform the service members about the citizenship process and help with the application. Third, it requires CIS to set up a customer service hotline dedicated to serving military members and their families. Finally, it requires the Government Accountability Office to conduct an investigation into what is wrong with immigration services for our military.

No one should ever again have to go through what Kendell and his mother went through. I am proud to stand here today with Senator KENNEDY to offer this amendment named after Kendell Frederick, just as his mother asked me to do. The Kendell Frederick bill will make sure that anyone in the military who wants to be a U.S. citizen will be able to do so, quickly and easily. If you are willing to fight and die for America, you should be able to become an American. I urge my colleagues to join with me in passing this important amendment. Help the brave men and women fighting for this country become the U.S. citizens they deserve to be.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

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

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

TRIBUTE TO VICE ADMIRAL JACK FETTERMAN

Mr. MARTINEZ. Mr. President, I rise today to recognize the passing of an exceptional leader, as well as a respected Floridian. VADM John ''Jack'' Fetterman passed away last Friday at his home in Pensacola, FL, at the age of 73.

Following graduation from Albright College in Pennsylvania and Aviation Officer Candidate School in Pensacola, Admiral Fetterman began his career as a naval aviator. He later went on to become a Pacific Fleet naval Air Force commander in 1987 and was promoted to vice admiral.

I had the pleasure of meeting and working with Admiral Fetterman during the Base Closure and Realignment process last year. I found him to be a fierce and eloquent defender of the Navy and of the military.

Admiral Fetterman, in 1991, became the chief of Naval Education and Training at Pensacola Naval Air Station. He created and was the father of the Core Values Training Program, which earned him the title of the ''Father of Navy Ethics.''

Admiral Fetterman retired as a three-star admiral in 1993. But upon his retirement, he did not just retire, he continued his love of the Navy and his service to the Nation by becoming the president and CEO of the Naval Aviation Museum Foundation.

Admiral Fetterman, with a great deal of love and care, guided and directed the Museum of Naval Aviation in Pensacola, which is truly a wonderful and remarkable place where the many heroic feats of people over the years connected to naval aviation are recorded and appreciated.

Admiral Fetterman, to the very last, continued to serve his Nation and his country well. I extend my condolences to the members of his family, to his beloved wife, and to all those in the community, in the naval community, who came in contact with such a fine American, who served his country so well.

At times such as this, I know we are always reminded that life is finite, and that we also have to harken and always appreciate a life well lived, as was Admiral Fetterman's.

Mr. President, I yield the floor.

CAMBODIA

Mr. MCCONNELL. Mr. President, today is a tragic anniversary for Cambodia.

Nine years ago, on March 30, 1997, a peaceful and legal rally held by the opposition Khmer Nation Party was disrupted by a grenade attack. To date, there has been no justice for the victims or their families, including American Ron Abney who was injured in the attack.

While I am aware of the many lawsuits relating to this incident that have been filed, dropped, or dismissed, I encourage the State Department to work with the Government of Cambodia to secure the return of the Federal Bureau of Investigation, FBI, so that the FBI can conclude its investigation into this crime. Bringing the perpetrators to justice is the only way to honor those killed and injured on that tragic day.

I am hopeful that the ongoing dialogue between Prime Minister Hun Sen and opposition leader Sam Rainsy will continue and that Hun Sen's pledges for reform are matched by concrete and measurable actions. My only advice to the Prime Minister is that he thinks before he speaks. It is counterproductive, at best, to call for the sacking of Yash Ghai, the U.N.'s special representative for human rights in Cambodia, because of critical comments he made on the Government's crackdown on dissent.

The desire for democracy and justice in Cambodia remains strong today, and I encourage the Cambodian people to remain vigilant. It is my hope that they, one day, know freedom from fear, can rely on good governance, and know

that justice is neither bought nor sold. The Government of Cambodia bears the burden of proving that it is part of the solution—and not part of the problem. International donors should not forget for a single moment that those killed 9 years ago were peacefully calling for judicial reforms.

As I have in the past, I ask unanimous consent that the names of those murdered on March 30, 1997, be printed in the RECORD following my remarks. I know they remain in the thoughts and prayers of their families and friends in Cambodia, as do they in ours.

There being no objection, the names were ordered to be printed in the RECORD, as follows: Mr. Cheth Duong Daravuth, Mr. Han Mony, Mr. Sam Sarin, Ms. Yong Sok Neuv, Ms. Young Srey, Ms. Yos Siem, Ms. Chanty Pheakdey, Mr. Ros Sear, Ms. Sok Kheng, Mr. Yoeun Yorn, Mr. Chea Nang, Mr. Nam Thy.

FRAUDULENT PRESIDENTIAL ELECTIONS IN BELARUS

Mr. FEINGOLD. Mr. President, today I want to express my concerns about the recent presidential election in Belarus.

I have previously noted the tremendous hardships Belarus has endured throughout its history. For centuries, Belarus has been fought over, occupied and carved up. But Belarus' declaration of independence from the Soviet Union in 1991 held great promise for a better future. As it broke from communist rule, it had the opportunity to build a free nation and become part of a peaceful, more secure Europe. The country began to embrace economic and political reforms and democratic principles. It established a constitution and held its first Presidential election in 1994.

Unfortunately, the prospect of democratic change in Belarus was quickly frozen as its first President, Alexander Lukashenka, adopted increasingly authoritarian policies, including amending the constitution in a flawed referendum to extend his term and broaden his powers. Lukashenka's regime has been marked by a terrible human rights record that is progressively getting worse, with little respect for freedom of expression, assembly or an independent media. A pattern of disturbing disappearances of opposition leaders fails to be seriously investigated by authorities. The living conditions in Belarus are declining and Lukashenka's refusal to institute economic reforms has only aggravated the situation.

The 2005 State Department Human Rights report states that ''the government's human rights record remained very poor and worsened in some areas with the government continuing to commit numerous serious abuses.'' The report goes on to acknowledge that Lukashenka ''systematically undermined the country's democratic institutions and concentrated power in the executive branch through flawed referenda, manipulated elections, and undemocratic laws and regulations.'' Mr. President, the litany of human rights abuses documented in this report show that Lukashenka has only used the last 12 years to increase the reign of tyranny and oppression in Belarus.

The elections of March 19, 2006 continued Lukashenka's repressive tactics and total disregard for democratic principles. The Organization for Security and Cooperation in Europe, OSCE, which observed the elections, stated in its report that ''the arbitrary abuse of state power, obviously designed to protect the incumbent President, went far beyond acceptable practice. The incumbent President permitted State authority to be used in a manner which did not allow citizens to freely and fairly express their will at the ballot box.'' The report cited a ''climate of intimidation and insecurity'' and a ''highly problematic'' vote count during and after the election.

The recent so-called ''color revolutions'' in Georgia, the Ukraine, and Kyrgyzstan, showed what can happen when a country's people become fed up with the oppression of tyrants and call for democratic, representative government. Let us hope that the fledgling democracy movement in Belarus has a similar chance to flower. A number of courageous Belarusians braved intimidation and took serious risks to denounce the election results in peaceful public demonstrations; unfortunately, these risks were made imminently clear when Belarusian security forces marched into the public square where they were rallying and forcibly detained a number of them in the early morning hours of March 24. I add my voice to the chorus of those calling for the Belarusian authorities to respect the rights of their citizens, hold valid elections, and immediately release those who were detained simply for peacefully expressing their views.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On November 14, 2001, Pablo Parrilla was charged with first-degree intentional homicide in the shooting death of his sister's girlfriend, Juana Vega. Parilla confronted Vega outside her Milwaukee, WI, house and shot her repeatedly. According to reports, Parrilla was shouting sexually derogatory slurs toward Vega throughout the attack.

I would note that recently in the House, hate crimes legislation was passed in a bipartisan vote. I strongly believe that we must also move similar legislation in the Senate. In the months ahead, I look forward to working with Senator KENNEDY as we continue our work in passing a hate crimes bill.

NATIONAL WOMEN'S HISTORY MONTH

Mr. LAUTENBERG. Mr. President, I rise today to commemorate National Women's History Month.

This is an important national observance that reminds us to celebrate the immense accomplishments and everlasting contributions of women. Women have helped shape our society since the first settlers landed on America's shores, and women continue to lead us into the future.

It is important that we remember the efforts of women such as Harriet Tubman, Amelia Earhart, Eleanor Roosevelt, Elizabeth Cady Stanton, Madeleine Albright, Maya Angelou, Ella Fitzgerald, Betty Friedan, Ruth Bader Ginsburg, Billie Jean King, Margaret Mead, Sacagawea, and Chien-Shiung Wu. We celebrate the diverse contributions of each of these remarkable women to all facets of American society.

The State of New Jersey is home to many commendable women. Alice Paul, Elizabeth Coleman White, Mary Norton, and Mary Roebling are just a few.

Alice Paul was as a leader of the women's suffrage movement, founder of the National Women's Party, and author of the equal rights amendment. This longtime activist for women's equality is well known for picketing the White House, which landed her in jail during the summer of 1917 but helped secure women's right to vote. Few have had as great an impact on American history as Alice Paul.

Elizabeth Coleman White was born on her family's cranberry farm in New Lisbon, NJ. She partnered with Frederick Coville on her farm to create the first commercial crop of blueberries. Ms. White was also the first person to use a cellophane wrap in fruit shipment.

Mary Norton was elected to the U.S. House of Representatives in 1924 and served in Congress for 26 years. She was a member of the famous Petticoat Front in the 80th Congress, which was a bipartisan group of women who fought to gain equal footing with men as legislators. At the time, only seven women served in the Congress. Today, thanks in part to Mary Norton's pioneering efforts, a record 84 women are Members of Congress.

Mary Roebling was the first woman to head a major commercial bank, the Trenton Trust Company, and in 1958 she became the first female governor of the New York Stock Exchange. She has proven that women can be just as successful in the business world, and any sector, as men.

These four women are only a handful of those who deserve recognition for their contributions to America.

In 1981, Congress passed a resolution establishing National Women's History Week, which coincides with International Women's Day. At the request of the National Women's History Project, this was expanded to a month in 1987. I have always been proud to support this effort.

I hope that National Women's History Month will continue to help educate Americans about women's accomplishments and inspire more women to reach for the stars.

A SPEAKER FOR IDAHO

Mr. CRAIG. Mr. President, I never had the opportunity to serve with Bruce Newcomb in the Idaho State Legislature, but having been privileged to get to know him, I very much would have enjoyed working with a man of his caliber.

Bruce is retiring from the Idaho House of Representatives at the end of the 2006 session, and he will be sorely missed by his colleagues in the legislature and his constituents in Idaho. Bruce has developed a reputation of being an honest and evenhanded speaker of the house whose sense of humor helps in tackling contentious issues and a heavy workload. In addition, he is a strong leader who is not afraid to make a strong stand when the situation calls for it.

Having grown up on a working farm and ranch in Idaho myself, I understand the difficulty of going to Boise to serve in the legislature in the middle of the calving season. Bruce has been able to handle his work as a rancher while serving the constituents of Idaho, without sacrificing the quality of either profession—not to mention his important duties as a family man, the husband of Celia Gould and father of five children. It takes a truly talented man to handle all these responsibilities and continue to have such strong loyalty and respect from colleagues, family, and friends.

Over the 2006 President's Day recess, I had the opportunity to share the floor with Bruce at the Mini-Cassia Lincoln Day Luncheon in Burley, ID, to answer questions from the constituents of Idaho. Bruce fielded all the State-related questions and handled them with impressive knowledge, not to mention a down-home country charm which made complicated issues easy to understand. After seeing Bruce in action with his constituents in his home district, it is easy to understand why he will leave such huge boots to fill when he retires.

Bruce served 20 years in the Idaho House of Representatives, where he held many different leadership roles: majority caucus chairman, assistant majority leader, majority leader, and four terms as speaker of the house. His four terms as speaker marks him as the longest-serving speaker in the Idaho House of Representatives.

Bruce, thank you for your service to our State. You truly are a speaker who speaks for Idaho.

Mr. CRAPO. Mr. President, when the 2006 session of the Idaho State Legislature adjourns this year, it will signal the end of an era. The longest-serving speaker of the Idaho House of Representatives will be retiring. Bruce Newcomb, a rancher from Burley, will leave the legislature after a total of 20 years. He spent the past four terms as speaker and leaves boots that will be difficult to fill, to say the least.

Bruce and I served together in the legislature in the late 1980s. My former colleague is a thoughtful man of principle and a terrific sense of humor. Bruce is also one of my closest friends. Over the years, I have worked with him on many issues important to Idaho, and I know that I can always turn to him for solid advice and counsel. His reputation for cooperation and collaboration is well deserved. He consistently seeks out fair and just solutions to policy challenges, even the more contentious and divisive such as water issues and term limits. Nevertheless, Bruce is unafraid to take a respectful but strong stand when circumstances require it. He earned such loyalty among colleagues and coworkers that when he lost his hair in a bout with cancer in the 1990s, many of them shaved their heads in a show of solidarity.

Bruce takes his public service very seriously. Idaho has gained from his wisdom, love for our State and ability to see clearly a path forward. Idaho's legislature is losing a remarkable man who has served all Idahoans faithfully and with excellence. I wish him and his family the very best in retirement, and thank him for his steady, close friendship over the years.

COMBAT METH ACT

Mrs. FEINSTEIN. Mr. President, I rise today to include in the RECORD an additional comment regarding the Combat Meth Act, which was passed into law earlier this year as part of the USA–PATRIOT Reauthorization Act.

While much has been said about the portions of this bill that address the national meth problem, I wish to highlight the commonsense approach this legislation provides for preventing the diversion of controlled substances.

The Controlled Substances Act requires its registrants to ensure that controlled substances do not fall into the wrong hands in the places where they are manufactured, distributed, or sold. To this end, it has always been the Drug Enforcement Administration's goal to encourage such registrants to investigate fully the backgrounds of potential employees who might have access to such substances, specifically for drug-related criminal convictions.

However, certain State and local privacy laws have had the potential to hamper this objective. These laws frustrate the purpose of the Controlled Substances Act and the objectives of the Drug Enforcement Administration by, among other things, purporting to prohibit registrants from asking questions relating to an applicant's experience with controlled substances, including whether they have been convicted of drug-related crimes. The real-world implication has been, in a word, nonsensical. In my own State of California, for example, there is a State law that provides that employers are not allowed to question a potential employee about certain drug-related criminal convictions that are older than 2 years. This prohibition also purports to cover employers who are registered under the Controlled Substances Act. If a registrant complied with this State law, it could mean that a responsible pharmacy could hire someone to work at the cash register who would be in a position to divert pharmaceutical products, and the employer would never have any clue about the applicant's past. This runs counter to the purpose of the Controlled Substances Act and undermines the DEA's efforts to prevent the unlawful diversion of controlled substances.

The law we passed clarifies once and for all that registrants can and should fully vet applicants, including asking them about any and all drug-related criminal convictions—not as an infringement on someone's privacy but as a safeguard to ensure that people with access to controlled substances do not pose risks to the public welfare. This legislation makes clear that those on the frontlines of preventing controlled substance diversion have a crucial tool they need to do their job.

RELEASE OF JILL CARROLL

Ms. STABENOW. Mr. President, today is a day of great celebration for Jill Carroll, and her friends and family. The Christian Science Monitor reporter and Ann Arbor native was set free today in Baghdad nearly 3 months after being kidnapped in an ambush that killed her translator. The U.S. Embassy is now working hard to reunite Jill with her family as soon as possible.

In Michigan, we all anxiously watched and prayed for the release of this young woman, and I want to express my gratitude to everyone who worked hard for her release. I want to thank the Arab-American and Muslim-American leaders in Michigan and across the country for their hard work.

The Islamic Shura Council of Michigan which represents more than two dozen mosques and Islamic organizations in Southeast Michigan held a press conference publicly calling for her release. The Council on American-Islamic Relations sent a delegation to Baghdad to lobby for her release. The American-Arab Anti-Discrimination Committee, The Arab American News and the Congress of Arab American Organizations also issued public statements calling for Jill Carroll's release.

These groups spoke out not just because of Jill Carroll's ties to Michigan or because this was a humanitarian issue, but because kidnapping and killing are an affront to the principles and values of Islam and Arab-American culture.

I want to wish Jill Carroll and her family the very best. She is safe, she is free, and very soon she will be home with her family.

TRIBUTE TO KAY LEBOWITZ

Ms. COLLINS. Mr. President, I rise today to pay tribute to a remarkable woman in Bangor, ME, the city I am proud to call home.

Her name is Katherine Lebowitz, but her friends call her Kay. And she has lots of friends: the citizens of Maine she represented so well in the State legislature, the residents of Bangor she served as mayor, the countless people who benefit from her tireless volunteer work for educational, cultural, and charitable causes.

Also among her close circle of friends are the more than 260,000 members of the U.S. Armed Forces who have passed through Bangor International Airport during the last 3 years of conflict. Whether Bangor is their last stop before going overseas or the first American soil they touch on the way home, Kay Lebowitz and the wonderful Bangor Troop Greeters are there. Nearly 1,500 military flights have landed in Bangor since 2003, and the Troop Greeters have met every one day or night with cookies, homemade fudge, cell phones to call loved ones back home, cheers of gratitude, and hearty handshakes.

At the age of 90 soon to be 91 Kay has arthritis that prevents her from shaking hands, so she hugs. She hugs until her arms ache, but there is a hug for everyone. To the returning troops, she says, ''Welcome home.'' To those headed out, it is ''See you on the way back.'' And she will.

Today K-I-S-S radio in Bangor is holding a roast in honor of Kay Lebowitz. This event will include the ceremonial ''retirement'' of a pair of her trademark eyeglasses very stylish eyeglasses into the Troop Greeters Hall of Fame at Bangor International Airport. This is precisely the kind of lighthearted gesture Kay enjoys most, and it is fully in keeping with her generous spirit.

I am sure my Senate colleagues join me and all Americans in thanking the Bangor Troop Greeters for their extraordinary efforts in expressing the gratitude we all share, and in wishing the very best on this special day to Kay Lebowitz. She is a remarkable woman and a great patriot.

ADDITIONAL STATEMENTS

CONGRATULATING LAHAINALUNA HIGH SCHOOL

• Mr. AKAKA. Mr. President, I extend my warmest congratulations to a secondary school in my State of Hawaii, on the island of Maui, that has reached a significant milestone this year. All my best to Lahainaluna High School, as it proudly celebrates its 175th anniversary. Lahainaluna sits in the foothills of the West Maui Mountains overlooking Lahaina, a former whaling village once the capital of Hawaii.

As with many schools, Lahainaluna, known as ''the leading star of the Pacific,'' began as a seminary for young men. It opened on September 5, 1831, following a vote of the Hawaiian Mission of the American Board of Commissioners to create the institution. Rev. Lorrin Andrews served as the school's first headmaster for 25 students. By June of 1836, the class size increased to accommodate 32 boys, some of them beginning the tradition of boarding that continues today.

Lahainaluna's initial curriculum included subjects that missionaries to Hawaii wished to require of teachers. These were traditional subjects such as arithmetic, writing, geography, and natural history, and later, advanced mathematics, astronomy, scriptural history, and theology. Students were also instructed in useful trades including farming, animal care, carpentry, navigation, surveying, printing, and engraving. Members of this institution were inventive and innovative, and on February 14, 1834, the first issue of Ka Lama Hawaii, the first newspaper published west of the Rocky Mountains, was printed at the school.

The school's curriculum expanded tremendously from its original offerings by the turn of the century. Students learned grammar, bookkeeping, typing, mechanical and architectural drawing, sanitation, civics, business math and English, in addition to vocational subjects such as auto repair and agriculture.

Lahainaluna kept pace with the times and in 1923 became known as a ''public high school'' for boys and girls, rather than as a ''special school.'' Two years later, the school became a 4-year high school and graduated its first senior class in June 1926.

Statehood came for all of us in Hawaii on August 21, 1959. About 20 years after that, Lahainaluna's traditionally male boarding department opened its doors to admit female boarders.

Lahainaluna was accredited in 2004 by the Western Association of Schools and Colleges for a 6-year term. It received a 2006 Superior Schools award at the Environmental and Spatial Technology conference in Hot Springs, AR.

Today, Lahainaluna continues to be one of Maui's flagship high schools, educating a diverse student body of 1,000 students each year and sending them to colleges across the country. Certainly, the school has weathered many changes, particularly the rise and fall of Maui's sugar industry, and the inevitable impacts on the families of its student body. It is my hope that the school will continue for many years into the future to educate bright, young minds and inspire them to become productive citizens who give back to the community.

Congratulations to Principal Michael Nakano, members of his administration, faculty, staff, current students, and their families, and all of its alumni who have continued Lahainaluna's proud traditions and seen the school to its memorable 175th anniversary this year.

The school's philosophy is an enduring one, and I will end by noting part of it here, ''We recognize the importance of each student. All students can learn and we must give them the opportunity to maximize their potential. We encourage students to think independently, to have a sense of responsibility for themselves and for society and to experience the satisfactions and rewards that come from creativity.''•

100TH ANNIVERSARY OF THE ROSWELL PUBLIC LIBRARY

• Mr. BINGAMAN. Mr. President, I am proud to join the citizens of southeastern New Mexico in celebrating the 100th anniversary of the Roswell Public Library. That this should happen on the cusp of National Library Week makes the distinction even more gratifying. I would like to take this opportunity to commend Library Director Betty Long and the Roswell Public Library staff, both former and present, for their hard work and dedication to the public library system. Their devotion and commitment to the citizens of Roswell and Chaves County are exemplary.

On April 2, 1906, through the perseverance of the Roswell Woman's Club, the library opened at its original location on Richardson and Third Streets. The Roswell Public Library was established before New Mexico received statehood; it also preceded the historic Chaves County Courthouse. Throughout the decades, the Roswell Public Library has remained steadfast in providing Roswell the scholarly and leisure resources necessary to stimulate a vibrant and growing community.

During my time in the Senate I have come to understand the importance of increased funding for and awareness of library services in the 21st century. Libraries do more than just loan books; they serve as meeting places, repositories of knowledge, and safe havens where ideas can be strengthened or challenged. They have played a vital role in the development of human culture throughout history. It is clear that the role of the Roswell Public Library in this most worthy pursuit will be even greater in the decades to come.

Once again, I would like to congratulate the Roswell Public Library on their centennial. I wish them continued success as they move forward.•

MESABI EAST SCHOOLS, AURORA, MINNESOTA

• Mr. DAYTON. Mr. President, I rise today to honor the Mesabi East School

District, in Aurora, MN, which recently earned an Award for Excellence in Education for its exceptional and innovative achievements in educating children.

The Mesabi East School District is truly a model of educational success. The district believes the education of our students goes beyond the classroom walls to include helping children develop compassion and the desire to serve their community.

Toward that goal, for the past 9 years, the Mesabi East Schools have sponsored Project Elf, which provides clothing, food, and toys for less fortunate families in the area who apply for the assistance. Donations are solicited from local merchants, and student volunteers receive a budget to shop for each family. All names are kept confidential. Recently, Project Elf inspired another initiative, called Elf Central. Participating students and staff volunteer to stay after school to make gifts for people in need of a cheerful message. The effort became a groundswell; now, 457 students volunteer often, throughout the year.

Students' community involvement exceeds helping families and those in need. Over the past 6 years, the students of the Mesabi East Schools have sponsored a carefully planned Veterans Day celebration to honor the men and women who have given so much for their country. The Veterans Day ceremony has become a hallmark of community pride and a wonderful form of appreciation for the sacrifices of all our Nation's veterans.

In addition, the Mesabi East District has focused particular attention on early childhood education. Recently, the District created a nonprofit entity dedicated to researching the best possible way to provide services to families. This group has quickly organized a variety of early childhood activities within the community.

Much of the credit for the success of the Mesabi East School District belongs to its superintendent, Gene Paulson; the principals, Sam Wilkes and Jorma Rahkola; and all the dedicated teachers. The students and staff at Mesabi East Schools understand that, in order to be successful, a school must go beyond achieving academic success; it must also provide a nurturing environment where students can develop the knowledge, skills, and attitudes for success throughout life. All of the faculty, staff, and students at Mesabi East Schools should be very proud of their accomplishments.

I congratulate the Mesabi East School District in Aurora for winning the Award for Excellence in Education and for its exceptional contributions to education in Minnesota.●

JOHN A. JOHNSON ACHIEVEMENT PLUS ELEMENTARY SCHOOL

● Mr. DAYTON. Mr. President, I rise today to honor John A. Johnson Achievement Plus Elementary School, in Saint Paul, MN, which recently earned an Award for Excellence in Education for its exceptional and innovative achievements in educating children.

John A. Johnson Elementary School is truly a model of educational success. A state-of-the-art community school, it was the first recipient of the Richard W. Riley Award for Excellence in Community Schools, which is conferred by the KnowledgeWorks Foundation, a public education philanthropy in Ohio. John A. Johnson Elementary, which serves 320 children in kindergarten through grade six, was deemed the best community school in the Nation and won this distinction merely 4 years after opening its doors.

As one of Minnesota's best-performing schools serving children of a predominantly low-income population, Johnson has accumulated truly impressive academic accomplishments. For example, during the school's first 2 years of operation, 2000–2002, only 50 percent of the children tested average or above average on standardized reading tests. However, for the past 2 years, nearly 80 percent scored average or above average.

Improvements in math scores at John A. Johnson Elementary are equally remarkable. Last year, standardized test scores in math were within two percentage points of the district average. Only 3 years ago, John A. Johnson pupils were 30 points below the district average.

John A. Johnson Elementary does more than teach children; it is structured to assist families and reduce barriers to education that impede children's learning. The school integrates support services by forming partnerships with many community organizations and making these services available to help parents.

Much of the credit for John A. Johnson Achievement Plus Elementary School's success belongs to its principal, Frank Feinberg, and the dedicated teachers. The students and staff at John A. Johnson Elementary School understand that, in order to be successful, a school must go beyond achieving academic success; it must also provide a nurturing environment where students can develop the knowledge, skills, and attitudes for success throughout life. All of the faculty, staff, and students at John A. Johnson Achievement Plus Elementary School should be very proud of their accomplishments.

I congratulate John A. Johnson Elementary School in Saint Paul for winning the Award for Excellence in Education and for its exceptional contributions to education in Minnesota.●

LAKE HARRIET COMMUNITY SCHOOL, MINNEAPOLIS, MINNESOTA

● Mr. DAYTON. Mr. President, I rise today to honor Lake Harriet Community School, in Minneapolis, MN, which recently earned an Award for Excellence in Education for its exceptional and innovative achievements in educating children.

Lake Harriet Community School is truly a model of educational success. The school is fully committed to its mission of guiding students to love learning and to celebrate and respect a diverse population, and also to empower young people to reach their full potential as knowledgeable, responsible, and confident citizens of the global community. The school focuses on educating the whole child. Opportunities abound across a broad spectrum, so that virtually every interest is served: love of music and art, athletics, competitive chess, the environment, and history. At Lake Harriet, young people are invited to get involved and are helped to excel in pursuing their interests.

Lake Harriet School reflects the diversity of its city, and it opens its doors to the entire community. Students are given the privilege of meeting other young people of many different cultures, experiences, and abilities. Students come to Lake Harriet Community School from a variety of Minneapolis neighborhoods, and the school is proud of its record of fostering respect and appreciation for diversity.

The academic achievements of the students who attend Lake Harriet Community School are among the highest in Minnesota. For 2 successive years, the school has earned five-star status in both reading and math from the Minnesota Department of Education, an accomplishment realized by fewer than 5 percent of all schools in the State of Minnesota.

Much of the credit for Lake Harriet Community School's success belongs to its principal, Marsha Seltz, and all the dedicated teachers. The students and staff at Lake Harriet Community School understand that, in order to be successful, a school must go beyond achieving academic success; it must also provide a nurturing environment where students can develop the knowledge, skills, and attitudes for success throughout life. All of the faculty, staff, and students at Lake Harriet Community School should be very proud of their accomplishments.

I congratulate Lake Harriet Community School in Minneapolis for winning the Award for Excellence in Education and for its exceptional contributions to education in Minnesota.●

TRIBUTE TO BRAD COHEN

● Mr. ISAKSON. Mr. President, today I wish to pay tribute to a remarkable young man, Brad Cohen. Brad is a teacher and an author. Brad Cohen is one of the more than 100,000 people in the United States who have full-blown Tourette syndrome.

I first met Brad through his loving father and my friend Norm Cohen. Later, as chairman of the State Board

of Education, I visited Brad in his classroom at Mountain View Elementary. I marveled at Brad's ability to teach and hold young children spellbound. I watched as Brad's occasional twitches and noises went unnoticed by his class. I watched a young teacher master both teaching and Tourette syndrome through determination and personal commitment.

Brad has authored a book titled ''Front of the Class, How Tourette Syndrome Made Me the Teacher I Never Had.'' It is a story of personal challenge and determination. It is a story of a young man's dreams coming true. Brad's book is for everyone, and his twenty motivational tips on living with a disability are an inspiration for anyone. I commend Brad Cohen on the power of his life of achievement and the inspiration he has to the children he teaches.●

TRIBUTE TO HOOSIER ESSAY CONTEST WINNERS

● Mr. LUGAR. Mr. President, I wish today to share with my colleagues the winners of the 2005–2006 Dick Lugar/Indiana Farm Bureau/Farm Bureau Insurance Companies Youth Essay Contest.

In 1985, I joined with the Indiana Farm Bureau to sponsor an essay contest for eighth grade students in my home State. The purpose of this contest is to encourage young Hoosiers to recognize and appreciate the importance of Indiana agriculture in their lives and subsequently craft an essay responding to the assigned theme. I, along with my friends at the Indiana Farm Bureau and Farm Bureau Insurance Companies, am pleased with the annual response to this contest and the quality of the essays received over the years.

I congratulate Sangeeth Jeevan, of Vigo County, and Brittany Blazier, of Wells County, as winners of this year's contest, and I ask to have printed in the RECORD the complete text of their respective essays. Likewise, I would like to include the names of all of the district and county winners of the 2005–2006 Dick Lugar/Indiana Farm Bureau/Farm Bureau Insurance Companies Youth Essay Contest.

The material follows.

INDIANA FARM SUPER HEROES

(By Sangeeth Jeevan—Vigo County)

Introducing the Indiana Farm Super Heroes!

Corn Man—with his super riboflavin power to boost energy, can change from a solid, corn starch, to a liquid, corn syrup.

Wheat Gal—with her supernatural ability to deliver more energy with carbohydrates and make food delicious!

Powerful Poultry—delivering protein needed to build muscle and provide the best tasting meat!

Big Beef—teams up with the Powerful Poultry to provide even more protein.

Potato Pal—a tasty hero that delivers the carbohydrates to energize our health.

Vivacious Veggies—these veggies pack a punch of healthy vitamins and minerals essential for our health!

Today, they will face the challenge of creating a nutritious cookout.

Corn Man: Ok team, what should we do? We need to create the best cookout only with Indiana farm products.

Wheat Gal: I have an idea. Maybe Big Beef should help create a delicious steak!

Powerful Poultry: Yeah, and I could make some mouth watering chicken skewers!

Corn Man: Yeah! Good thinking, Wheat Gal. Veggies, do you think you can create some kind of barbecue sauce for the meat?

Vivacious Veggies: Of course! We could use our tomatoes packed with vitamin C.

Corn Man: Great. I can create a couple of scrumptious grilled corn-on-the-cob!

Wheat Gal: MMM! This cookout sounds tasty. Maybe I can create some buns for cheeseburgers. Hey, Big Beef, do you think you can help me?

Big Beef: Of course! After all, burgers are my specialty. Hey, can you Veggies help me add some condiments?

Vivacious Veggies: Coming right up!

Potato Pal: Maybe I can whip up some snacks for us; say how do potato chips sound!

Everybody: GREAT!!!

Powerful Poultry: I can't believe we can make all these cookout foods just from Indiana farm products. It's amazing!

Wheat Gal: Yeah, and to think these items are so delicious and nutritious!

Corn Man: This is the best cookout ever!

MEMORABLE COOKOUTS FROM HOOSIER FARMS

(By Brittany Blazier—Wells County)

''Lunch time!''

My head popped out of the chilly lake water like a jack-in-the-box. I didn't need to be told twice. Scrambling out of the water, I ran to the shore and flung a sun-warmed towel around me, the breeze making goose bumps on my skin. It was another beautiful day in Indiana.

''What are we eating?'' my brother asked as he sat down at a picnic table.

''The usual,'' I shrugged.

Of course, as Grandma and Mom brought out plate after plate of piping hot food, ''the usual'' was absolutely music to my taste buds. Corn on the cob, strawberries, and an apple pie looked especially appetizing.

Quickly buttering my corn, I felt my mouth water. ''This is your corn, isn't it, Grandpa?''

Indiana is the seventeenth largest producer of sweet corn in the nation. In 2003, it produced 18,600 tons! Along with the fact that sweet corn tastes delicious, it's also very healthy. Corn is a good source of protein, carbohydrates, fiber, iron, and potassium.

After the corn, I moved on to devour the strawberries. Also grown in Indiana, strawberries are jam-packed with vitamin C. In fact, one cup of strawberries is eighty-two milligrams of vitamin C, which is twenty-two more than my diet requires.

Finally, the apple pie was last with apples straight from our orchard. Indiana ranks sixteenth in the country for apple production. Apples are another great source of vitamin C and other nutrients.

I put my fork down and sighed with happiness. My stomach was full, and so was my heart. These memorable cookouts with our homegrown food—heavenly Hoosier horticulture—are ineffably priceless.

2005–2006 DISTRICT ESSAY WINNERS

District 1: Elizabeth Zubrenic (Lake County) and Michael Rice (Marshall County).

District 2: Jeff Teeters (Allen County) and Megan Ramus (DeKalb County).

District 3: Jill Griffin (Carroll County) and Victor Gutwein (Jasper County).

District 4: Jared Wilkinson (Miami County) and Brittany Blazier (Wells County).

District 5: Andrew Keck (Hendricks County) and Chelsea Carroll (Morgan County).

District 6: Nick Johnson (Hamilton County) and Cierra Edwards (Randolph County).

District 7: Sangeeth Jeevan (Vigo County) and Amy Goodman (Green County).

District 8: Megan Hein (Johnson County) and Doug Wicker (Rush County).

District 9: Blake Kleaving (Perry County) and Austen McBain (Posey County).

District 10: Julia Hunter (Floyd County) and Jordan Agan (Washington County).

2005–2006 COUNTY ESSAY WINNERS

Adams: Elizabeth Goebel.

Allen: Jeff Teeters and Ivy Strubel.

Bartholomew: Chrissy Day.

Benton: Michael Strasburger and Allyson LaGrange.

Brown: Sherry Lynn Bube.

Carroll: Jill Griffin.

Cass: Ethan Sell and Katelyn McKaig.

Clark: Austin Mann.

Daviess: Elizabeth Anne Bohnert.

DeKalb: Dean Behrendsen and Megan Ramus.

Dubois: Matthew Wilmes and Katie Whitsitt.

Elkhart: Bennett Tyson and Emily Zimmerman.

Floyd: Stephen McCoskey and Julia Hunter.

Franklin: Chase Howell and Molly Schwab.

Greene: Corbyn Bales and Amy Goodman.

Hamilton: Nick Johnson and Meera Chander.

Hendricks: Andrew Keck and Rachel Douglas.

Henry: Zach Emerson and Emily Thornburgh.

Jackson: Derrick O'Sullivan and Kourtney Tiemeyer.

Jasper: Victor Gutwein and Lindsey Park.

Jay: Ben Vance and Kellie Howell.

Jennings: Aaron Simmons and Morgan Siener.

Johnson: Ben Diekhoff and Megan Hein.

Lake: Patrick Cudzilo and Elizabeth Zubrenic.

Madison: Jessica Driggers.

Marion: Alex Schroeder and Anasuya Shekhar.

Marshall: Michael Rice and Rachel Conley.

Miami: Jared Wilkinson and Adeline Jackson.

Monroe: J.P. Tapp and Deana Fox.

Morgan: Chelsea Carroll.

Newton: Colin Lawrence and Megan Tornquist.

Perry: Blake Kleaving.

Posey: Logan Schmitt and Austen McBain.

Pulaski: Evan Criswell.

Putnam: Laura McGaughey.

Randolph: Jordan Wall and Cierra Edwards.

Rush: Doug Wicker.

St. Joseph: Mark Greci and Vanessa Noriega.

Scott: Trenton Johnson and Anna McGuire.

Starke: Nick Hofferth and Rachel Lugo.

Switzerland: Maggie Armstrong.

Tippecanoe: Natasha Scheffee.

Vigo: Sangeeth Jeevan and Paige Cook.

Wabash: Matthew Andersen and Marissa Stoffel.

Warrick: Ethan Schnur and Amanda Downey.

Washington: Jordan Agan and Cora Carter.

Wayne: Shaun Sizemore and Elizabeth Lim.

Wells: Brittany Blazier.

White: Cory Thomas and Amanda Spear.●

TRIBUTE TO GENERAL LANCE W. LORD

Mr. SESSIONS. Mr. President, I rise today to recognize and pay tribute to

GEN Lance W. Lord, commander of Air Force Space Command, and his wife Beccy for their lifetime of service and unfaltering dedication to the U.S. Air Force and our great country.

As both an airman and leader, spanning 37 years of military service, General Lord's contributions to our Nation's strategic deterrence and space missions were critical to the warfighter, global economy, and the safety of our families. General Lord's leadership was an essential element in winning the Cold War and vital to Air Force Space Command's support of combat operations around the world to include Operations Enduring Freedom, Iraqi Freedom, and the global war on terrorism.

General Lord prepared for his illustrious Air Force career by graduating from Otterbein College and its Reserve Officer Training Corps in 1968. In January of 1969, General Lord was introduced to the Air Force through Intercontinental Ballistic Missile, ICBM, operational readiness and combat crew missile training. This training led to his first assignment to North Dakota as a Minuteman II combat crewmember. General Lord's Air Force journey would take him and Beccy through a series of Air Staff and Department of Defense assignments relating to space and strategic and tactical missile systems. He was assigned as the military assistant to the director of Net Assessment and directed the Ground-Launched Cruise Missile Program in Europe. He served as the commander of the 10th Strategic Missile Squadron in Montana, vice commander of the 351st Strategic Missile Wing in Missouri, and later commanded two ICBM wings in Wyoming and North Dakota. In California, General Lord commanded the 30th Space Wing responsible for satellite launch and ballistic missile test launch operations. Leading professional development and educational programs was a hallmark of General Lord's career. He led Air Force's education and training programs as commandant of Squadron Officer School, commander of Second Air Force in Mississippi, and commander of Air University in Alabama. Prior to assuming his current position, General Lord served as the assistant vice chief of staff for Headquarters, U.S. Air Force.

During General Lord's tenure as commander, Air Force Space Command, he provided inspirational leadership to over 39,000 service men and women responsible for a global network of satellite command and control, communications, missile warning, space launch, and ensured the combat readiness of America's ICBM force. General Lord guided the command to a number of historic firsts: 44 successful consecutive operational space launches, establishment of National Security Space Institute, the launch of the last Titan IV, and transition to the Evolved Expendable Launch Vehicle, deactivation of the Peacekeeper ICBM weapon system, and the establishment of the quarterly High Frontier, Air Force Space Command's first scholarly space and missile journal. General Lord has been a stellar Air Force advocate for the creation of the Space Power Caucus, orchestrated the ''50 Years of Air Force Space and Missiles'' celebration, and developed the Space Professional Development Strategy. Most recently, he answered the President's call to service with the creation of the High Frontier Adventures, a program designed to inspire students to explore space, mathematics, science, engineering and technology.

General Lord's impeccable service is characterized by his Command Space Badge, Space Professional Level III certification, operational space experience in nuclear operations and spacelift, weapon systems expertise in the Minuteman II, Minuteman III, and Peacekeeper ICBMs, and the Atlas E, Delta II, Titan II, and Titan IV Boosters. General Lord is the recipient of numerous prestigious recognitions: Space Champion Award, General Bernard A. Schriever Award, General Jimmy Doolittle Fellow Award, General James V. Hartinger Award, and the General Thomas D. White Space Trophy.

Today, I have mentioned but a few of GEN Lance W. Lord's many achievements. General Lord is a visionary, steadfast military leader, and honorable man. I know my colleagues join me in paying tribute to him and his wife Beccy and their two sons, Jason and Joshua, for the years they have dedicated to our country and to the betterment of the U.S. Armed Forces. As a distinguished space pioneer, General Lord widely proclaimed the mandate, ''If you're not in space, you're not in the race.'' General Lord, we wish you well.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 12:21 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1259. An act to award a congressional gold medal on behalf of the Tuskegee Airmen, collectively, in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

H.R. 4911. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. STEVENS).

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, March 30, 2006, she had presented to the President of the United States the following enrolled bills:

S. 2116. An act to transfer jurisdiction of certain real property to the Supreme Court.

S. 2120. An act to ensure regulatory equity between and among all dairy farmers and handlers for sales of packaged fluid milk in federally regulated milk marketing areas and into certain nonfederally regulated milk marketing areas from federally regulated areas, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6186. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Process for Requesting Waiver of Mandatory Separation Age for Certain Federal Aviation Administration (FAA) Air Traffic Controllers'' (RIN2120–AI18) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6187. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of the Dimensions of the Grand Canyon National Park Flight Rules Area and Flight Free Zones'' (RIN2120–AI71) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6188. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Port Isabel, Texas)'' (MB Docket No. 04–274) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6189. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cuba and Knoxville, Illinois)'' (MB Docket No. 05–118) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6190. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Lancaster, Pickerington, and Westerville, Ohio)'' (MB Docket No. 03–238) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6191. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Old Forge and Black River, New York)'' (MB Docket No. 05–279) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6192. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Matagorda, Texas)'' (MB Docket No. 04–215) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6193. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Otter Creek, Florida)'' (MB Docket No. 05–54) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6194. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Tomahawk, Wisconsin; Waynoka, Oklahoma; Wasco, California; Richland Springs, Texas; and Hermitage, Arkansas)'' (MB Docket Nos. 04–202, 04–271, 04–272, 04–273, and 04–431) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6195. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Coupeville and Sequim, Washington)'' (MB Docket No. 04–280) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6196. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (New Harmony, IN and West Salem, IL)'' (MB Docket No. 04–341) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6197. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fernandina Beach and Yulee, Florida)'' (MB Docket No. 05–240) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6198. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Cuney, TX)'' (MB Docket No. 05–33) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6199. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bend and Prineville, Oregon)'' (MB Docket No. 03–78) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6200. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Bairoil and Sinclair, Wyoming)'' (MB Docket No. 05–117) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6201. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Harrisonburg, Louisiana; Mecca, California; Taos, New Mexico; San Joaquin, California; and Rosepine, Louisiana)'' (MB Docket Nos. 04–266, 04–267, 04–268, 04–269, and 04–270) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6202. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Grand Portage, Minnesota)'' (MB Docket No. 04–432) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6203. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Okeene, Oklahoma)'' (MB Docket No. 05–296) received on March 27, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6204. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (27); Amdt. No. 3150'' (RIN2120–AA65) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6205. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (18); Amdt. No. 3151'' (RIN2120–AA65) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6206. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (44); Amdt. No. 3153'' (RIN2120–AA65) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6207. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures (42); Amdt. No. 3154'' (RIN2120–AA65) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6208. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Class E Airspace; Big Delta, Allen Army Airfield, Ft. Greely, AK'' ((RIN2120–AA66) (Docket No. 05–AAL–13)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6209. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Koliganek, AK'' ((RIN2120–AA66)(Docket No. 05–AAL–30)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6210. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of High Altitude Area Navigation Routes; South Central United States'' ((RIN2120–AA66)(Docket No. 05–ASO–7)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6211. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Gothenburg, Quinn Field, NE'' ((RIN2120–AA66)(Docket No. 06–ACE–1)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6212. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of the Minneapolis Class B Airspace; MN'' ((RIN2120–AA66)(Docket No. 03–AWA–6)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6213. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Glaser-Dirks Flugzeugbau GmbH Model DG–100 and DG–400 Sailplanes and DG Flugzeugbau GmbH Models DG–500 Elan Series and DF–500M Sailplanes'' ((RIN2120–AA64)(Docket No. 2005–CE–44)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6214. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; McDonnell Douglas Model DC–10–10, DC–10–10F, DC–10–15, DC–10–30, DC–10–30F (KC–10A and KDC–10), DC–10–40, DC–10–40F, MD–10–10F, MD–10–30F, MD–11, and MD–11F Airplanes'' ((RIN2120–AA64)(Docket No. 2004–NM–178)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6215. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls Royce plc RB211 Trent 553–61, 553A2–61, 556–61, 556A2–61, 556B–61, 556B2–61, 560–61, and 560A2–61 Turbofan Engines'' ((RIN2120–AA64) (Docket No. 2005–NE–41)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6216. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model ERJ 170 Airplanes'' ((RIN2120–AA64) (Docket No. 2005–NM–052)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6217. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace Model HS 748 Airplanes''

((RIN2120–AA64) (Docket No. 2004–NM–141)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6218. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Model DH.125, HS.125, and BH .125 Series Airplanes; Model BAe.125 Series 800A, 800B, 1000A, and 1000B Airplanes; and Model Hawker 800 and 1000 Airplanes'' ((RIN2120–AA64) (Docket No. 2005–NM–017)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6219. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120, –120ER, –120FC, 120QC, and –120RT Airplanes'' ((RIN2120–AA64) (Docket No. 2005–NM–191)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6220. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–1A11, CL–600–2A12, and CL–600–2B16 Airplanes '' ((RIN2120–AA64) (Docket No. 2005–NM–157)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6221. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A330–200, A330–300, A340–200, and A340–300 Series Airplanes'' ((RIN2120–AA64) (Docket No. 2003–NM–168)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6222. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2B19 Airplanes'' ((RIN2120–AA64) (Docket No. 2005–NM–197)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6223. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Model Hawker 800XP Airplanes'' ((RIN2120–AA64) (Docket No. 2005–NM–188)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6224. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Airbus Model A310–203, –204, and –222 Airplanes, and Model A310–300 Series Airplanes'' ((RIN2120–AA64) (Docket No. 2005–NM–143)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6225. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Turbomeca Arriel 1B, 1D, 1D1, and 1S1 Turboshaft Engines'' ((RIN2120–AA64)(Docket No. 2005–NE–09)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6226. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bombardier Model CL–600–2B19 Airplanes'' ((RIN2120–AA64)(Docket No. 2005–NM–161)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6227. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Aircraft Company Model 390 Airplanes'' ((RIN2120–AA64)(Docket No. 2005–CE–51)) received on March 28, 2006; to the Committee on Commerce, Science, and Transportation.

EC–6228. A communication from the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, a report relative to Atlantic highly migratory species for 2006; to the Committee on Commerce, Science, and Transportation.

EC–6229. A communication from the White House Liaison, Department of the Treasury, transmitting, pursuant to law, the report of action on a nomination and the discontinuation of service in the acting role for the position of Assistant Secretary (Public Affairs), received on March 27, 2006; to the Committee on Banking, Housing, and Urban Affairs.

EC–6230. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency declared in Executive Order 13224 of September 23, 2001, with respect to persons who commit, threaten to commit, or support terrorism; to the Committee on Banking, Housing, and Urban Affairs.

EC–6231. A communication from the Chairman and President (Acting), Export-Import Bank of the United States, transmitting, pursuant to law, the Bank's Annual Report for Fiscal Year 2005; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 65. A bill to amend the age restrictions for pilots (Rept. No. 109–225).

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 829. A bill to allow media coverage of court proceedings.

S. 1768. A bill to permit the televising of Supreme Court proceedings.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 108–7 Protocol of 1997 Amending MARPOL Convention (Ex. Rept. 109–13)]

The text of the committee-recommended resolution of advice and consent to ratification is as follows:

TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION AS RECOMMENDED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Understandings and Declaration

The Senate advises and consents to the ratification of the Protocol of 1997 to Amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 Relating Thereto (hereinafter in this resolution referred to as the ''Protocol of 1997''), signed by the United States on December 22, 1998 (T. Doc 108–7), subject to the understandings and declaration in sections 2 and 3.

Section 2. Understandings

The advice and consent of the Senate under section 1 is subject to the following understandings, which shall be included in the United States instrument of ratification:

(1) The United States of America understands that the Protocol of 1997 does not, as a matter of international law, prohibit Parties from imposing, as a condition of entry into their ports or internal waters, more stringent emission standards or fuel oil requirements than those identified in the Protocol.

(2) The United States of America understands that Regulation 15 applies only to safety aspects associated with the operation of vapor emission control systems that may be applied during cargo transfer operations between a tanker and port-side facilities and to the requirements specified in Regulation 15 for notification to the International Maritime Organization of port State regulation of such systems.

Section 3. Declaration

The advice and consent of the Senate under section 1 is subject to the following declaration, which shall be included in the United States instrument of ratification:

The United States of America notes that at the time of adoption of the Protocol of 1997, the NO_x emission control limits contained in Regulation 13 were those agreed as being achievable by January 1, 2000, on new marine diesel engines, and further notes that Regulation 13(3)(b) contemplated that new technology would become available to reduce on-board NO_x emissions below those limits. As such improved technology is now available, the United States expresses its support for an amendment to Annex VI, that would, on an urgent basis, revise the agreed NO_x emission control limits contained in Regulation 13 in keeping with new technological developments.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. SPECTER for the Committee on the Judiciary.

Michael A. Chagares, of New Jersey, to be United States Circuit Judge for the Third Circuit.

Patrick Joseph Schiltz, of Minnesota, to be United States District Judge for the District of Minnesota.

Gray Hampton Miller, of Texas, to be United States District Judge for the Southern District of Texas.

Sharee M. Freeman, of Virginia, to be Director, Community Relations Service, for a term of four years.

Jeffrey L. Sedgwick, of Massachusetts, to be Director of the Bureau of Justice Statistics.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first

and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 2481. A bill to require the Secretary of Homeland Security to hire additional full-time non-supervisory import specialists of the Bureau of Customs and Border Protection, and for other purposes; to the Committee on Finance.

By Ms. LANDRIEU (for herself and Mr. KERRY):

S. 2482. A bill to authorize funding for State-administered bridge loan programs, to increase the access of small businesses to export assistance center services in areas in which the President declared a major disaster as a result of Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005, to authorize additional disaster loans, to require reporting regarding the administration of the disaster loan programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. ENSIGN (for himself, Mr. VITTER, and Mr. ISAKSON):

S. 2483. A bill to establish a Law Enforcement Assistance Force in the Department of Homeland Security to facilitate the contributions of retired law enforcement officers during major disasters; to the Committee on Homeland Security and Governmental Affairs.

By Mr. OBAMA (for himself, Mr. MENENDEZ, Mr. HARKIN, Mrs. CLINTON, and Mr. LIEBERMAN):

S. 2484. A bill to amend the Internal Revenue Code of 1986 to prohibit the disclosure of tax return information by tax return preparers to third parties; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. WYDEN):

S. 2485. A bill to amend the Internal Revenue Code of 1986 to provide a source for payments to States and counties under the Secure Rural Schools and Community Self-Determination Act of 2000; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. OBAMA, Mr. KERRY, Mr. MENENDEZ, Mr. DURBIN, and Mr. BIDEN):

S. 2486. A bill to ensure that adequate actions are taken to detect, prevent, and minimize the consequences of chemical releases that result from terrorist attacks and other criminal activity that may cause substantial harm to public health and safety and the environment; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. ENSIGN:

S. Res. 415. A resolution expressing the continuing support of the Senate to the Junior Reserve Officers' Training Corps (JROTC), and commending the efforts of that vital program as it carries out its mission of instilling the values of citizenship and service in the hearts and minds of the youth of the United States; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 513

At the request of Mr. GREGG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 811

At the request of Mr. DURBIN, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. 811, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the birth of Abraham Lincoln.

S. 828

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 828, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 1440

At the request of Mr. CRAPO, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1440, a bill to amend title XVIII of the Social Security Act to provide coverage for cardiac rehabilitation and pulmonary rehabilitation services.

S. 1815

At the request of Mr. ALEXANDER, the names of the Senator from Tennessee (Mr. FRIST) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 1815, a bill to amend the Immigration and Nationality Act to prescribe the binding oath or affirmation of renunciation and allegiance required to be naturalized as a citizen of the United States, to encourage and support the efforts of prospective citizens of the United States to become citizens, and for other purposes.

S. 1865

At the request of Mrs. DOLE, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 1865, a bill to establish the SouthEast Crescent Authority, and for other purposes.

S. 1952

At the request of Mr. COLEMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1952, a bill to provide grants for rural health information technology development activities.

S. 2025

At the request of Mr. BAYH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2025, a bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes.

S. 2284

At the request of Ms. MIKULSKI, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 2284, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 2292

At the request of Mr. SPECTER, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 2292, a bill to provide relief for the Federal judiciary from excessive rent charges.

At the request of Mr. LEAHY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2292, supra.

S. 2321

At the request of Mr. SANTORUM, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 2321, a bill to require the Secretary of the Treasury to mint coins in commemoration of Louis Braille.

S. 2370

At the request of Mr. MCCONNELL, the names of the Senator from Washington (Mrs. MURRAY), the Senator from South Carolina (Mr. GRAHAM), the Senator from Iowa (Mr. GRASSLEY), the Senator from Minnesota (Mr. COLEMAN) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2370, a bill to promote the development of democratic institutions in areas under the administrative control of the Palestinian Authority, and for other purposes.

S. 2403

At the request of Mr. THOMAS, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2403, a bill to authorize the Secretary of the Interior to include in the boundaries of the Grand Teton National Park land and interests in land of the GT Park Subdivision, and for other purposes.

S. 2426

At the request of Mr. BAUCUS, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2426, a bill to facilitate the protection of minors using the Internet from material that is harmful to minors, and for other purposes.

S. 2460

At the request of Mr. MENENDEZ, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2460, a bill to permit access to certain information in the Firearms Trace System database.

S. 2475

At the request of Mr. SALAZAR, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S.

2475, a bill to establish the Commission to Study the Potential Creation of a National Museum of the American Latino Community, to develop a plan of action for the establishment and maintenance of a National Museum of the American Latino Community in Washington, DC, and for other purposes.

S. CON. RES. 65

At the request of Mr. BURR, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. Con. Res. 65, a concurrent resolution recognizing the benefits and importance of Federally-qualified health centers and their Medicaid prospective payment system.

S. RES. 408

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Res. 408, a resolution expressing the sense of the Senate that the President should declare lung cancer a public health priority and should implement a comprehensive interagency program that will reduce lung cancer mortality by at least 50 percent by 2015.

S. RES. 409

At the request of Mr. FEINGOLD, his name was added as a cosponsor of S. Res. 409, a resolution supporting democracy, development, and stabilization in Haiti.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. Res. 409, supra.

At the request of Mr. LIEBERMAN, his name was added as a cosponsor of S. Res. 409, supra.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. KERRY):

S. 2482. A bill to authorize funding for State-administered bridge loan programs, to increase the access of small businesses to export assistance center services in areas in which the President declared a major disaster as a result of Hurricane Katrina of 2005, Hurricane Rita of 2005, or Hurricane Wilma of 2005, to authorize additional disaster loans, to require reporting regarding the administration of the disaster loan programs, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, I come to the floor with my ranking member and leader on this issue, Senator JOHN KERRY of Massachusetts, to speak for a few moments about a bill the two of us are going to introduce today, the Gulf Coast Open for Business Act of 2006, by Senators LANDRIEU, KERRY and others. Let me first commend my colleague and thank him for joining me here today. He will be giving more details about the act, which he has worked with my staff and others to craft, so let me add some personal perspective.

I stand here again, on behalf of the people of Louisiana, and the whole gulf coast, who have just been devastated by the two most powerful storms to ever hit the United States in recorded history, and as you yourself know, because you were down in the gulf and have been a frequent champion for our cause. It is still hard, though, to describe to our colleagues the current situation there. Not only were these two hurricanes quite powerful, at some point category 4 and 5, which are killer storms, but just as devastating was the flooding that ensued by the collapse of the Federal levee system—a collapse because of inadequate engineering. Both the hurricanes and the flooding have literally devastated a major metropolitan area which sits in the heart of America's only energy coast, the gulf coast, and has been devastating to large and small businesses alike. We are here today to talk about our small businesses and their struggle for survival. They are indeed the backbone of our economic recovery.

We have first focused on levees, appropriately, and gulf coast restoration efforts, without which no recovery will be possible. We have also tried to struggle keeping children in school, keeping families sheltered, literally from the elements in temporary housing, when we think 7 months on after Katrina and Rita, recovery is going to start with our small businesses.

As I mentioned, yesterday marked the seven month anniversary of Hurricane Katrina. Katrina was the most destructive hurricane ever to hit the United States. The next month, in September, Hurricane Rita hit the Louisiana and Texas coast. It was the second most powerful hurricane ever to hit the United States, wreaking havoc on the southwestern part of my state and the east Texas coast. This one-two punch devastated Louisiana lives, communities and jobs, stretching from Cameron Parish in the west to Plaquemines Parish in the east.

We are now rebuilding our State and the wide variety of communities that were devastated by Rita and Katrina, areas representing a diverse mix of population, income and cultures. We hope to restore the region's uniqueness and its greatness. To do that, we need to rebuild our local economies for now and far into the future.

Before last year's storms, Louisiana had 86,000 small businesses, employing over 850,000 people. Their annual payroll was $21.9 billion.

My State estimates that there were 71,000 businesses in the Katrina and Rita disaster zones. A total of 18,752 of these businesses catastrophically destroyed. However, on a wider scale, according to the U.S. Chamber of Commerce, over 125,000 small and medium-sized businesses in the gulf region were disrupted by Katrina and Rita. As of this month, local chambers of commerce report that as many as two-thirds of their members had not resumed business operations. We will never succeed without these small businesses. They will be the key to the revitalization. I am here with my colleague to say that the regular approach, the standard operation, the mousetrap that we created to handle past disasters is simply not sufficient.

Some of the people who work for the Small Business Administration and FEMA are terrific. You could not find better human beings on the face of the Earth. But it is not the individual human beings who are lacking here; it is the system that is insufficient and inadequate to the task.

Senator KERRY and I come to the floor today to speak about this bill that will create new models, create enhanced help from the Federal Government so that the businesses in Louisiana can at least be met halfway in their struggle to get their roofs back on, their inventories back in supply, and new markets opened up, since the markets around them have collapsed. The communities they served and hold to are in some cases destroyed, in others dispersed across the country. If we don't help them now, building a strong gulf coast will be all the more difficult without our small businesses.

After talking to the business leaders and small businesses in my State, there are three things that they need right now: technical assistance, contracting assistance, and assistance with SBA disaster loans. For example, many of our small businesses need help navigating the SBA assistance programs or, with much of their customer base in other States, others are now looking overseas for new markets. Our bill includes a provision to waive the $100,000 cap on portability grants to SBDCs and allows SBDCs to receive these grants for disaster relief. Our bill also contains funds for the SBA to create a gulf coast international finance specialist, based in the gulf, who would provide essential technical assistance for small businesses looking for export financing.

It is vital to the economic recovery in Louisiana that our small businesses are given the opportunity to take part in the reconstruction of their State. Our businesses want to help rebuild their communities, but continue to have trouble getting Federal recovery contracts and keep getting mixed signals from FEMA.

With these facts in mind, our bill sets a small business prime contracting goal of 30 percent for Federal emergency contracts to rebuild the affected areas. This is to ensure that small businesses, particularly those located in the disaster area and that employ individuals in the affected areas, should receive a fair share of Federal contracting dollars. Our bill also makes the disaster areas eligible for HUBZones status to promote business growth.

Our businesses are struggling to deal with the SBA bureaucracy. Too often, when they get action on their loan application, it is a letter of rejection rather than a check.

The SBA has repeatedly touted how it has staffed up and increased its loan

processing productivity in recent months. They even cite record loan approvals in the gulf. But recent numbers show it is still taking the SBA 104 days to process and close on a business application. That is time many struggling businesses that are holding on by their fingernails in a challenging environment simply do not have.

Many times, when businesses are approved for an SBA loan, they find the terms and conditions to be unduly burdensome. Some are put in the position of having to make payments while they take care of expenses they have incurred for the months they spent waiting for the loan.

Our bill provides substantive relief to small businesses in the disaster areas by allowing them to defer repayment of disaster loans for 1 year from the time they received the loan. This will give them time to resume operations and build back a customer base as displaced residents gradually return home. Our bill also increases the SBA's disaster mitigation loan amounts so that borrowers can more effectively invest in products such as sea walls or storm shutters, that mitigate against damage from future disasters.

It is important to not only address our current needs from past hurricanes but to also look ahead to the next hurricane season—which is only 63 days away. I am concerned that the SBA has not incorporated 'lessons learned' from recent storms. I am concerned that they remain unprepared for what may be another active hurricane season—if not in my State then perhaps in other coastal States in 2007.

One provision included in our bill is a requirement that the SBA submit to Congress a detailed proactive disaster response plan by June 1, 2006, the start of the 2006 Atlantic hurricane season. I want to make sure the SBA is ready to respond should that become necessary.

As we reflect on the 7-month anniversary of the worst natural disaster to hit our Nation, now is the time for action—not words or empty promises. Today, right here in the Senate, is a time for fresh ideas and fiscally responsible plans to help our small businesses rebuild.

I urge my colleagues to support this important legislation.

With that, I turn the floor over to Senator KERRY who will go into additional detail about the Gulf Coast Open for Business Act. I thank him for his leadership, not only for this week but since the week of the storm. Our chairwoman, Senator SNOWE along with Senator KERRY, have focused a great deal of their own efforts from outside of our region to help our small businesses. I commend them for their continued efforts and, along with my fellow Senator from Louisiana, Mr. VITTER, look forward to working with them in the coming months to give our small businesses the help they need so that they may rebuild and prosper once again.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, first of all, I thank the Senator from Louisiana. She has been terrific to work with on this issue, but, more important, she is absolutely tenacious with respect to the recovery issues in her State. I think she has offered tremendous leadership in the Senate on a constant basis. On almost every bill that comes through, she has fought to find a way to assist with the recovery. It has been a pleasure to work with her. I know she has to go to another meeting. I am pleased to join with her in introducing this legislation today.

Senator LANDRIEU has tried to spread the word that New Orleans has plenty to offer, that people should not be scared away by negative press reports but instead be looking for opportunities to help rebuild one of our greatest cities.

According to the U.S. Chamber of Commerce, more than 125,000 small and medium sized businesses were disrupted or destroyed by the hurricanes. It's been seven months since the Gulf was hit by the hurricanes, and it is time to take a look at the long-term needs of businesses in the region if we are going to truly foster an economic recovery.

It is well known, the SBA's disaster loan program has done an abysmal job of getting out capital to businesses and homeowners over the past seven months, still with almost 80,000 applications to be processed out of 400,000 applications submitted. To help clear out the backlog, this bill enlists the agency's private-sector lending partners to help process loans. They are experienced SBA lenders, and in exchange for their expertise, SBA would pay them a fee to process loans. This is much faster than building a separate infrastructure of lenders, losing time to train them, when the experience and infrastructure already exists. Along with the American Bankers Associations, we urged the SBA back in November to enlist the agency's private-sector lending partners to help process loans. SBA refused, saying they had a better idea. That idea failed. With this bill, SBA can increase processing, get small businesses their loans faster, and local lenders can participate in the recovery of their communities.

We also identified a need for export assistance. There is an interesting phenomenon occurring right now as a result of Katrina. Companies from around the globe, having witnessed the tragedy of New Orleans, are trying to reach out to businesses along the Gulf Coast. For companies that had already established relationships overseas, this has meant big bucks. Many smaller businesses, however, don't have those relationships and are struggling to take advantage of these new international opportunities. The U.S. Export Assistance Centers, or USEACs, are ready and willing to help, and they are a tremendous resource for businesses looking to branch into foreign markets. But the problem is that the Small Business administration doesn't have an employee in the New Orleans USEAC to help direct businesses to the financing programs that they need. Senator LANDRIEU and I recognize that this is because the SBA's international trade resources are stretched too thinly, so we are authorizing extra funds for the SBA to use in hiring an employee for the New Orleans USEAC.

Shortly after Hurricane Katrina hit, Small Business Development Centers across the country decided to devote all the funds in the portability grant program, which is designed to help communities recover after suffering significant job losses, to helping the Gulf Coast SBDCs. Not only did the SBDC community sacrifice money to help their colleagues in the Gulf, they tried to volunteer employees and other resources. Unfortunately, the good intentions of the SBDC network were stopped by legal technicalities. Limitations on the amount of money a State could get for a portability grant and restrictions on SBDC employees working outside of their State hampered recovery efforts. Senator LANDRIEU and I were disturbed to hear of these problems, and with our legislation today we will correct these problems so that bureaucracy isn't preventing the Gulf Coast recovery.

This bill also focuses on contracting opportunities for small businesses. The full participation of this Nation's small businesses, particularly those in and around the affected region, in the rebuilding effort is essential to the long-term success of the region's economy. New Orleans, in particular, was a city built on a foundation of small business and they will be the driving force behind its rebuilding.

Unfortunately, not enough is being done to ensure this participation. Just last week, I sent a letter to FEMA about their failure to award approximately $1.5 billion in relief, recovery, and rebuilding contracts to small businesses. They told Senator LANDRIEU and me, and the other members of the Small Business Committee in November that they would award those contracts by February 1. We were disappointed that it would be another four months to get those funds to small businesses that desperately needed the work, but we were even more appalled when the deadline came and went, with no action from FEMA.

Thus, this legislation has a number of provisions to help small businesses in the disaster areas compete for Federal contracts in the short term and in any future disaster recovery effort.

This bill would make the declared disaster areas an Historically Underutilized Business Zone (HUBZone). This would give a preference to small businesses in the disaster zone when they bid on Federal contracts.

To help jumpstart the local economies affected by Hurricanes Katrina and Rita and Wilma, the bill requires the Federal Government to award 30 percent of prime contracts and 40 percent of subcontract dollars spent on

disaster relief, recovery or reconstruction in the four affected States to be awarded to small businesses. Small businesses performing work in the area are more likely to turn over Federal dollars in the local economy, reinvigorating the local economy. The provision also includes a requirement of a weekly small business utilization report from the Gulf Coast region.

The bill includes a change to the Stafford Act, requiring that 10 percent of immediate disaster recovery contracts, such as debris removal, distribution of supplies, and reconstruction are awarded to firms located in or near an area designated as a federal disaster area by the President. This will put more local people back to work and help a region's economic recovery after a disaster.

This legislation will increase access for small businesses seeking contracting opportunities but limited by their ability to get bonded. Expanding access to bonding will increase small business participation, but will also protect the Federal Government from significant cost overruns and lack of performance in a contract.

Mr. President, 43 percent of businesses that close following a disaster never reopen, and an additional 29 percent of businesses close down permanently within two years of a natural disaster. It's been seven months, but we still have a chance to make a difference and mitigate bankruptcies and foster the startup and growth of new small businesses to rebuild the Gulf region. I hope that my colleagues and the administration will give this bill consideration and not repeat the past months of obstruction that have hurt local small businesses and homeowners. It is inexcusable that the bipartisan bill we put forward with Senators SNOWE and VITTER in September has been stalled.

I thank my colleague Senator LANDRIEU for her leadership and look forward to traveling with her soon to Louisiana to visit with businesses and families that still need our help.

Mr. ENSIGN (for himself, Mr. VITTER, and Mr. ISAKSON):

S. 2483. A bill to establish a Law Enforcement Assistance Force in the Department of Homeland Security to facilitate the contributions of retired law enforcement officers during major disasters; to the Committee on Homeland Security and Governmental Affairs.

Mr. ENSIGN. Mr. President, the hours immediately following a disaster are critical to rescue and recovery efforts. Local law enforcement is often overburdened and staff is spread thin. As we saw in New Orleans, a lack of police presence can result in chaos and disorder which can affect the ability of first responders to conduct rescue operations.

In the immediate aftermath of Hurricane Katrina, volunteer first responders from throughout the country went to New Orleans and Biloxi to assist local law enforcement. Unfortunately, many of these volunteers encountered red tape that left them frustrated and idle rather than using their expertise to aid efforts.

Because there is a desire from retired police officers to offer their experience and expertise in times of crisis, today, along with my colleague Senator VITTER, I will be introducing the Law Enforcement Assistance Force Act to assist local law enforcement.

The Law Enforcement Assistance Force Act would allow a retired law enforcement officer, whose certifications are current, to apply to the Secretary of Homeland Security to serve in the force. These retired police officers would be detailed to Federal, State, or local government law enforcement agencies to assist in the event of a major disaster. They would work under the direct supervision of existing law enforcement agencies and would be deputized and certified to perform the duties of a law enforcement agent. The force would serve as temporary first responders to supplement local efforts in search and rescue efforts as well as in protecting public safety. These retired officers have the skills to save lives and we should empower them to do so.

At a time of emergency when we should be tapping into all available resources, we cannot ignore the expertise of retired law enforcement officers who still have the ability and willingness to help those in need. We should take advantage of the fact that retired officers possess a wealth of talent and experience in dealing with emergency situations. Their assistance can save lives and contribute greatly to our communities.

Mr. LAUTENBERG (for himself, Mr. OBAMA, Mr. KERRY, Mr. MENENDEZ, Mr. DURBIN, and Mr. BIDEN):

S. 2486. A bill to ensure that adequate actions are taken to detect, prevent, and minimize the consequences of chemical releases that result from terrorist attacks and other criminal activity that may cause substantial harm to public health and safety and the environment; to the Committee on Homeland Security and Governmental Affairs.

Mr. LAUTENBERG. Mr. President, I rise today to introduce the Chemical Security and Safety Act, a bill to protect our communities and citizens from terrorism. This measure is cosponsored by Senators OBAMA, KERRY, MENENDEZ, DURBIN, and BIDEN.

All of our States have a significant number of industrial facilities that manufacture or use chemicals. And we are all concerned about the potential of terrorist attacks on these facilities, which could threaten millions of lives.

I have advocated stronger security measures for chemical facilities for years. We needed better security at our chemical facilities even before 9/11—and that need is even more urgent today. Richard Falkenrath, a former top presidential advisor on homeland security, has said, ''I am aware of no other category of potential terrorist targets that presents as great a danger'' as chemical facilities.

There are about 15,000 chemical manufacturers and storage facilities nationwide, including about 110 in heavily populated areas. The greatest area of vulnerability is in South Kearney, NJ, where 12 million people live in proximity to the Kuehne Chemical plant. A chemical catastrophe at this facility could endanger the life and health of people caught in the path of the prevailing winds.

The State of New Jersey has taken strong action to protect its citizens from this threat. Last year, New Jersey required that chemical facilities adopt a practice known as inherently safer technology. That means exactly what it says—if products can be manufactured using safer chemicals, then factories must do so.

But last week, the Bush administration sent a signal that it wants to override the right of States to require inherently safer technology. Basically, the administration wants to trust chemical facilities to protect the American people.

This approach is wrong, and it is a timid response to a dangerous threat. Trusting large corporations to do the right thing didn't work with Enron—and it won't protect the American people from a chemical catastrophe.

The Chemical Security and Safety Act offers real protection from a chemical catastrophe. It will require every chemical facility in the Nation to adopt inherently safer technology. It will protect the rights of States to enact tough chemical security standards to protect their citizens. It will improve physical security at chemical plants, with a requirement for stronger perimeter barriers. And it will establish whistleblower protections for employees who expose security risks at chemical facilities, and guarantee that workers have a role in securing the safety of facilities.

This is a strong, comprehensive approach. Some might say it goes too far. But as someone whose State lost 700 people on 9/11, I don't think we can ever go too far in protecting the American people from a terrorist attack on a chemical facility.

We have waited long enough. We need to take action now to protect the American people from a chemical catastrophe. I hope all of my colleagues will support the Chemical Security and Safety Act.

I ask unanimous consent that the text of the Chemical Security and Safety Act be printed in the RECORD.

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

S. 2486

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 ''Chemical Security and Safety Act of 2006''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Federal Bureau of Investigation, the Department of Justice, the Department of Homeland Security, the Government Accountability Office, the Environmental Protection Agency, the Congressional Research Service, and the Agency for Toxic Substances and Disease Registry believe that the possibility of terrorist and criminal attacks on chemical plants poses a serious threat to public health and safety and the environment;

(2) there are significant opportunities to prevent harmful consequences of criminal attacks on chemical plants by employing inherently safer technologies in the manufacture and use of chemicals;

(3) inherently safer technologies may offer industry substantial savings by reducing the need for site security, secondary containment, buffer zones, mitigation, evacuation plans, regulatory compliance, and liability insurance; and

(4) owners and operators of chemical plants have a general duty to design, operate, and maintain safe facilities to prevent criminal activity that may result in harm to public health or safety or the environment.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) CLASSIFIED INFORMATION.—The term ''classified information'' has the meaning given the term in section 1 of the Classified Information Procedures Act (18 U.S.C. App.).

(3) COMMITTEE.—The term ''Committee'' means a committee established under section 7(a).

(4) COMMITTEE-ELIGIBLE EMPLOYEE.—The term ''committee-eligible employee'' means an employee who—

(A) is not an independent contractor, subcontractor, or consultant;

(B) is not employed by an off-site company affiliated with the owner or operator of the relevant stationary source; and

(C) does not have supervisory or managerial responsibilities at the relevant stationary source.

(5) COMMITTEE-ELIGIBLE STATIONARY SOURCE.—The term ''committee-eligible stationary source'' means a stationary source that has 15 or more full-time equivalent employees.

(6) CRIMINAL RELEASE.—The term ''criminal release'' means—

(A) a release of a substance of concern from a stationary source into the environment that is caused, in whole or in part, by a criminal act, including an act of terrorism; and

(B) a release into the environment of a substance of concern that has been removed from a stationary source, in whole or in part, by a criminal act, including an act of terrorism.

(7) DESIGN, OPERATION, AND MAINTENANCE OF SAFE FACILITIES.—The term ''design, operation, and maintenance of safe facilities'' means, with respect to the facilities at a stationary source, the practices of preventing or reducing the possibility of releasing a substance of concern—

(A) through use of inherently safer technology, to the maximum extent practicable;

(B) through secondary containment, control, or mitigation equipment, to the maximum extent practicable;

(C) by—

(i) making the facilities impregnable to intruders, to the maximum extent practicable; and

(ii) improving site security and employee training, to the maximum extent practicable;

(D) through the use of buffer zones between the stationary source and surrounding populations (including buffer zones between the stationary source and residences, schools, hospitals, senior centers, shopping centers and malls, sports and entertainment arenas, public roads and transportation routes, and other population centers);

(E) through increased coordination with State and local emergency officials, law enforcement agencies, and first responders, to the maximum extent practicable; and

(F) through outreach to the surrounding community, to the maximum extent practicable.

(8) EMPLOYEE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term ''employee'' means any individual employed by the owner or operator of a stationary source that produces, processes, handles, or stores a substance of concern.

(B) TRAINING.—For purposes of section 8, the term ''employee'' includes any employee of a construction or maintenance contractor working at a stationary source that produces, processes, handles, or stores a substance of concern.

(9) EMPLOYEE REPRESENTATIVE.—The term ''employee representative'' means a duly recognized collective bargaining representative at a stationary source.

(10) EMPLOYER.—The term ''employer'' includes—

(A) an employee of any employer, agent, contractor, or subcontractor subject to the provisions of this Act or engaged in the production, storage, security or transportation of a harmful chemical; and

(B) an employee, agent, contractor, or subcontractor of the Department of Homeland Security or any other Federal, State, or local government agency with responsibility for enforcing any provision of this Act.

(11) FIRST RESPONDER.—The term ''first responder'' includes Federal, State, and local emergency public safety, law enforcement, emergency response, and emergency medical (including hospital emergency facilities) agencies and authorities.

(12) OUTREACH TO THE SURROUNDING COMMUNITY.—The term ''outreach to the surrounding community'' includes education of residents near a stationary source regarding—

(A) emergency procedures in the case of a terrorist attack;

(B) evacuation procedures, routes, and travel times; and

(C) what actions to take to minimize exposure to and physical harm caused by substances of concern.

(13) OWNER OR OPERATOR.—The term ''owner or operator of a stationary source'' means any person who owns, leases, controls, or supervises a stationary source.

(14) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(15) STATIONARY SOURCE.—The term ''stationary source'' has the meaning given the term in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2)) and includes any chemical facility designated by the Secretary under section 5(d) of this Act.

(16) SUBSTANCE OF CONCERN.—The term ''substance of concern'' means any substance listed under section 112(r)(3) of the Clean Air Act (42 U.S.C. 7412(r)(3)) in a threshold quantity or any other substance designated by the Secretary under section 5(d) of this Act in a threshold quantity.

(17) THRESHOLD QUANTITY.—The term ''threshold quantity'' means, with respect to a substance, the quantity established for the substance—

(A) under section 112(r)(5) of the Clean Air Act (42 U.S.C. 7412(r)(5)); or

(B) by the Secretary under section 5(d) of this Act.

(18) USE OF INHERENTLY SAFER TECHNOLOGY.—

(A) IN GENERAL.—The term ''use of inherently safer technology'' means use of a technology, product, raw material, or practice that, as compared to the technology, products, raw materials, or practices currently in use—

(i) significantly reduces or eliminates the possibility of the release of a substance of concern; and

(ii) significantly reduces or eliminates the hazards to public health and safety and the environment associated with the release or potential release of a substance described in clause (i).

(B) INCLUSIONS.—The term ''use of inherently safer technology'' includes chemical substitution, process redesign, product reformulation, and procedural and technological modification so as to—

(i) use less hazardous or benign substances;

(ii) use a smaller quantity of a substance of concern;

(iii) moderate pressures or temperatures;

(iv) reduce the likelihood and potential consequences of human error;

(v) improve inventory control and chemical use efficiency; and

(vi) reduce or eliminate storage, transportation, handling, disposal, and discharge of substances of concern.

SEC. 4. PREVENTION OF CRIMINAL RELEASES.

(a) GENERAL DUTY.—Each owner and each operator of a stationary source that produces, processes, handles, or stores any substance of concern has a general duty, in the same manner and to the same extent as the duty imposed under section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)), to—

(1) identify hazards that may result from a criminal release using appropriate hazard assessment techniques;

(2) ensure the design, operation, and maintenance of safe facilities by taking such actions as are necessary to prevent criminal releases; and

(3) eliminate or significantly reduce the consequences of any criminal release that does occur.

(b) WORKER PARTICIPATION.—In carrying out its general duty to identify hazards under subsection (a), the owner or operator of a stationary source shall involve the employees of the stationary source in each aspect of ensuring the design, operation, and maintenance of safe facilities.

SEC. 5. DESIGNATION AND REGULATION OF HIGH PRIORITY CATEGORIES BY THE SECRETARY.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator and State and local government agencies responsible for planning for and responding to criminal releases and providing emergency health care, shall promulgate regulations to designate certain stationary sources and substances of concern as high priority categories, based on the severity of the threat posed by a criminal release from the stationary sources.

(b) FACTORS TO BE CONSIDERED.—

(1) IN GENERAL.—In designating high priority categories under subsection (a), the Secretary, in consultation with the Administrator, shall consider—

(A) the severity of the harm that could be caused by a criminal release;

(B) the proximity to population centers;

(C) the threats to national security;

(D) the threats to critical infrastructure;

(E) threshold quantities of substances of concern that pose a serious threat; and

(F) such other safety or security factors as the Secretary, in consultation with the Administrator, determines to be appropriate.

(2) INDIVIDUAL CONSIDERATION.—In designating high priority categories under subsection (a), the Secretary shall consider each stationary source individually and shall not summarily exclude any type of stationary source that would otherwise be considered a high priority under paragraph (1).

(3) INITIAL DESIGNATION.—In designating high priority categories for the first time under subsection (a), the Secretary shall ensure that not fewer than 3,000 stationary sources are within a high priority category.

(c) REQUIREMENTS FOR HIGH PRIORITY CATEGORIES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator, the United States Chemical Safety and Hazard Investigation Board, and the State and local government agencies described in subsection (a), shall promulgate regulations to require each owner or operator of a stationary source that is within a high priority category designated under subsection (a), in consultation with local law enforcement, first responders, employees, and employee representatives, to take adequate actions (including the design, operation, and maintenance of safe facilities) to detect, prevent, and eliminate or significantly reduce the consequences of terrorist attacks and other criminal releases that may cause harm to public health or safety.

(2) SOURCE REPORTS.—Not later than 6 months after the date on which regulations are promulgated under paragraph (1), each owner or operator of a stationary source that is within a high priority category designated under subsection (a) shall submit a report to the Secretary that includes—

(A) an assessment of the vulnerability of the stationary source to a terrorist attack or other criminal release;

(B) an assessment of the hazards that may result from a criminal release of a substance of concern using appropriate hazard assessment techniques;

(C) a prevention, preparedness, and response plan that incorporates the results of the vulnerability and hazard assessments under subparagraphs (A) and (B), respectively;

(D) a statement as to how the prevention, preparedness, and response plan meets the requirements of the regulations established under paragraph (1);

(E) a statement as to how the prevention, preparedness, and response plan meets the general duty requirements under section 4(a);

(F) a discussion of the consideration of the elements of design, operation, and maintenance of safe facilities, including the practicability of implementing each element;

(G) a statement describing how and when employees and employee representatives (if any) were consulted in considering the design, operation, and maintenance of safe facilities and in preparing the report under this paragraph.

(d) ADDITION OF SUBSTANCES OF CONCERN OR STATIONARY SOURCES.—For the purpose of designating high priority categories under subsection (a) or any subsequent revision of the regulations promulgated under subsection (c)(1), the Secretary, in consultation with the Administrator, may designate—

(1) any additional substance that, in a specified threshold quantity, poses a serious threat as a substance of concern; or

(2) any chemical facility as a stationary source.

(e) REVIEW AND REVISION OF REGULATIONS.—Not later than 5 years after the dates of promulgation of regulations under each of subsections (a) and (c)(1), and not less often than every 5 years thereafter, the Secretary, in consultation with the Administrator, shall review the regulations and make any necessary revisions.

SEC. 6. REVIEW AND CERTIFICATION OF REPORTS.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator, shall review each report submitted under section 5(c)(2) to determine whether the stationary source covered by the report is in compliance with regulations promulgated under section 5(c)(1).

(b) CERTIFICATION OF COMPLIANCE.—

(1) IN GENERAL.—The Secretary shall certify each determination under subsection (a) in writing.

(2) INCLUSIONS.—A certification under paragraph (1) indicating the stationary source is in compliance with the regulations under section 5(c)(1) shall include a checklist indicating the consideration by such stationary source of the use of each element of design, operation, and maintenance of safe facilities.

(c) DEADLINE FOR COMPLETION.—

(1) HIGHEST PRIORITY STATIONARY SOURCES.—Not later than 6 months after the date on which reports are required to be submitted under section 5(c)(2), the Secretary shall complete the review and certification of the 600 highest priority stationary sources designated under section 5(a).

(2) OTHER HIGH PRIORITY STATIONARY SOURCES.—Not later than 2 years after the date on which reports are required to be submitted under section 5(c)(2), the Secretary shall complete the review and certification of all reports submitted under that section.

(d) COMPLIANCE ASSISTANCE.—

(1) DEFINITION.—In this subsection, the term ''determination'' means a determination by the Secretary that, with respect to a report submitted under section 5(c)(2)—

(A) the report does not comply with regulations promulgated under section 5(c)(1);

(B) a threat exists that is beyond the scope of the plan submitted with the report; or

(C) the implementation of the plan submitted with the report is insufficient.

(2) DETERMINATION BY SECRETARY.—If the Secretary, after consultation with the Administrator, makes a determination, the Secretary shall—

(A) notify the stationary source of the determination; and

(B) in coordination with the Administrator and the United States Chemical Safety and Hazard Investigation Board, provide advice and technical assistance to bring the stationary source into compliance.

(e) RECERTIFICATION.—Not later than 3 years after the date of submission of a report under section 5(c)(2), and not less often than every 2 years thereafter, the owner or operator of the stationary source covered by the report, shall—

(1) review the adequacy of the report;

(2) certify to the Secretary that the stationary source has completed the review; and

(3) as appropriate, submit to the Secretary any changes to the assessments or plan in the report.

SEC. 7. SAFETY AND SECURITY COMMITTEES.

(a) IN GENERAL.—Not later than 6 months after the date of promulgation of regulations under section 5(a), the owner or operator of a committee-eligible stationary source shall establish a safety and security committee for that stationary source.

(b) COMMITTEE COMPOSITION.—

(1) IN GENERAL.—A Committee shall be composed of committee-eligible employees and managerial employees.

(2) MEMBERSHIP.—

(A) NUMBER OF MEMBERS.—

(i) IN GENERAL.—The Secretary, in consultation with the Administrator, shall promulgate regulations establishing the number of members of a Committee that are required.

(ii) CONTENTS.—The regulations promulgated under clause (i) shall—

(I) establish a number of members of a Committee that is directly proportional to the number of employees at a committee-eligible stationary source; and

(II) permit the number of members of a Committee to be increased above that established by regulation by mutual agreement between committee-eligible employees and managerial employees.

(B) RATIO.—The number of committee-eligible employees serving as members of a Committee shall be equal to or greater than the number of managerial employees serving as members.

(C) ALTERNATES.—An alternate member of a Committee may be designated if a member of a Committee is temporarily unavailable.

(D) PLACE OF EMPLOYMENT.—All members of a Committee shall be employed at the committee-eligible stationary source for which the Committee was established.

(3) SELECTION OF COMMITTEE-ELIGIBLE EMPLOYEE MEMBERS.—

(A) IN GENERAL.—At a committee-eligible stationary source that has an employee representative, the employee representative shall select the committee-eligible employee members of the Committee.

(B) NO EMPLOYEE REPRESENTATIVES.—

(i) IN GENERAL.—At a committee-eligible stationary source that does not have an employee representative, the owner or operator of the committee-eligible stationary source shall actively solicit volunteers from among committee-eligible employees who may potentially be exposed to a substance of concern.

(ii) INSUFFICIENT VOLUNTEERS.—If there is not a sufficient number of volunteers under clause (i), the owner or operator of the committee-eligible stationary source shall select additional committee-eligible employees to serve as members of the Committee.

(4) CO-CHAIRPERSONS.—A member of a Committee who is a committee-eligible employee and a member of a Committee who is a managerial employee shall serve as co-chairpersons of the Committee.

(c) LISTS OF MEMBERS.—The owner or operator of a committee-eligible stationary source shall prominently post at the stationary source a current list of all members of the Committee of the stationary source that includes the name and work location of each member and whether each member is a committee-eligible employee or a managerial employee.

(d) MEETINGS; QUORUMS; ACTION.—

(1) MEETINGS.—A Committee shall meet not less frequently than once per month at a time, date, and location agreed to by the Committee.

(2) QUORUM.—A majority of members of a Committee shall constitute a quorum for the transaction of Committee business.

(3) ACTION.—Any action by a Committee shall require an affirmative vote of a majority of the members present.

(e) AUTHORITY.—A Committee shall—

(1) identify, discuss, and make recommendations to the owner or operator of the committee-eligible stationary source concerning potential hazards and risks relevant to security, safety, and health and potential responses to those hazards and risks;

(2) survey the facility of the committee-eligible stationary source for potential security, safety, and health vulnerabilities;

(3) establish a schedule to conduct, not less frequently than once per month, a survey described in paragraph (2) of all or part of the committee-eligible stationary source;

(4) as soon as is practicable, assist in the investigation of an accident, criminal release, fire, explosion, or an incident in which there was a significant risk of an accident, criminal release, fire, or explosion; and

(5) participate in the development, review, or revision of any vulnerability assessment, hazard assessment, or prevention, preparedness, and response plan.

(f) RECOMMENDATIONS.—

(1) IN WRITING.—Any recommendations made by a Committee shall be made in writing.

(2) REVIEW.—At each meeting, a Committee shall review the status of any recommendation made by the Committee that the Committee has not determined to be resolved.

(3) NONUNANIMOUS RECOMMENDATIONS.—If a recommendation of a Committee is not unanimous, the owner or operator of the committee-eligible stationary source shall document the differing views of the members of the Committee and maintain records regarding any such recommendation.

(g) EXISTING COMMITTEES.—

(1) IN GENERAL.—A safety and health, environmental, or similar committee established at a committee-eligible stationary source before the date specified in subsection (a) that meets the requirements of this section may be designated as the Committee for the committee-eligible stationary source under a written agreement between the owner or operator of the committee-eligible stationary source and the employee representative of the committee-eligible stationary source.

(2) NO EMPLOYEE REPRESENTATIVE.—If there is no employee representative at a committee-eligible stationary source, the owner or operator of a stationary source may designate a safety and health, environmental or similar committee described in paragraph (1) as the Committee for the committee-eligible stationary source.

SEC. 8. EMPLOYEE TRAINING.

(a) IN GENERAL.—The owner or operator of a stationary source shall annually provide each employee with 4 hours of training—

(1) regarding the requirements of this Act, as applicable to the stationary source;

(2) identifying and discussing substances of concern that pose a risk to the community and first responders;

(3) discussing the prevention, preparedness, and response plan for the stationary source, including off-site consequence impacts;

(4) identifying opportunities to reduce or eliminate the vulnerability of a stationary source to a criminal release of a substance of concern through the use of the elements of design, operation, and maintenance of safe facilities; and

(5) discussing appropriate emergency response procedures.

(b) NONDUPLICATION.—Training provided under this section shall be in addition to any training required to be provided by the owner or operator of a stationary source under any other Federal or State law.

(c) DOCUMENTATION.—The owner or operator of a stationary source that is within a high priority category designated under section 5(a) shall—

(1) submit an annual written certification to the Secretary stating that the owner or operator has met the requirements for employee training under this section; and

(2) maintain a list of all employees who have received training under this section.

SEC. 9. INSPECTIONS, MONITORING, ENTRY, AND RECORDKEEPING.

(a) IN GENERAL.—For purposes of determining whether any owner or operator of a stationary source is in compliance with this Act or is properly carrying out any provision of this Act, the Secretary and the Administrator (or a designee of the Secretary or the Administrator) may take any action that the Administrator is authorized to take under paragraphs (7) and (9) of section 112(r) and section 114 of the Clean Air Act (42 U.S.C. 7412(r) and 7414).

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary and the Administrator shall establish a program to conduct regular inspections of stationary sources, and shall prioritize inspection of stationary sources that are within a high priority category designated under section 5(a).

(2) TYPES OF INSPECTION.—The program established under paragraph (1) shall—

(A) include inspections without notice and inspections with notice; and

(B) require that not fewer than 25 percent of inspections under the program shall be without notice.

(c) RECEIPT OF NOTICE.—

(1) IN GENERAL.—When providing notice to the owner or operator of a stationary source of an inspection or investigation under this Act, the Secretary or the Administrator (or a designee of the Secretary or the Administrator) shall instruct the owner or operator of the stationary source to, immediately upon receipt of the notification—

(A) post a notice, or a copy of any notice provided by the Secretary or the Administrator (or a designee of the Secretary or the Administrator), indicating that there will be an inspection or investigation, which shall be conspicuously displayed in the area of the stationary source subject to the inspection or investigation; and

(B) provide a copy of the notice posted under subparagraph (A) to an employee representative at the stationary source, if any.

(2) EXPLANATIONS.—

(A) IN GENERAL.—If the Secretary or the Administrator (or a designee of the Secretary or the Administrator) provides a written explanation of the purpose, scope, procedures, progress, or outcome of an inspection or investigation under this Act to the owner or operator of a stationary source, any employee of that stationary source shall be entitled to view a copy of the written explanation.

(B) INSTRUCTIONS.—The Secretary or the Administrator (or a designee of the Secretary or the Administrator) shall instruct the owner or operator of a stationary source receiving a written explanation described in subparagraph (A) to, not later than 24 hours after receiving the written explanation—

(i) conspicuously display the written explanation in the area subject to the inspection or investigation; and

(ii) provide a copy of the written explanation to an employee representative at the stationary source, if any.

(d) PROCEDURES.—

(1) PARTICIPATION BY EMPLOYEES.—

(A) IN GENERAL.—An official conducting an inspection or investigation of a stationary source under this Act shall instruct the owner or operator of the stationary source to afford the opportunity to participate in the inspection or investigation, and to accompany the official during the inspection or investigation to—

(i) an employee who works in, or is familiar with, the portion of the facility being inspected or investigated; and

(ii) an employee representative of the employees of the stationary source, if applicable.

(B) ADDITIONAL EMPLOYEES.—

(i) IN GENERAL.—Except as provided in clause (ii), an official described in subparagraph (A) may, if the official determines that doing so will aid in the inspection or investigation by the official, permit any additional employee representative of the employees of the stationary source or any additional employee to accompany the official, including permitting a different employee, employee representative, or representative of the owner or operator of the stationary source to accompany the official during different phases of the inspection or investigation.

(ii) EXCEPTION.—Clause (i) shall not apply to portions of an inspection or investigation in which an official described in subparagraph (A) is exclusively examining written records.

(C) MEETINGS.—If the official described in subparagraph (A) conducts a meeting with the management of a stationary source to explain the purpose, scope, procedures, progress, or outcome of an inspection or investigation under this Act, the official shall instruct the owner or operator of the stationary source to invite to the meeting any employee and employee representative that participated in the inspection or investigation. If the official determines it is necessary, the official shall arrange and conduct a separate meeting with any employee and employee representative that participated in the inspection or investigation.

(2) EXCLUSION OF INDIVIDUALS.—An official conducting an inspection or investigation of a stationary source under this Act may prohibit any individual whose conduct interferes with a fair and orderly inspection or investigation from accompanying the official on the inspection or investigation.

(3) INTERVIEWS.—An official conducting an inspection or investigation of a stationary source under this Act may—

(A) interview any person at the stationary source that the official determines is necessary to effectuate the purposes of this Act; and

(B) conduct any interview under subparagraph (A) outside the presence of the owner or operator, manager, or other personnel of the stationary source, if determined to be appropriate by the official.

(4) CLASSIFIED INFORMATION.—In the case of a stationary source that contains classified information, only persons who are authorized to have access to such information may accompany an official conducting an inspection or investigation of a stationary source under this Act in areas of the stationary source in which such information is located.

(e) RECORDKEEPING.—The owner or operator of a stationary source that is required to submit a report under section 5(c)(2) shall maintain on the premises of the stationary source a current copy of the report for the stationary source and any such report previously submitted.

SEC. 10. ENFORCEMENT.

(a) COMPLIANCE ORDERS.—

(1) ISSUANCE.—

(A) IN GENERAL.—If, after the date that is 30 days after the date described in subparagraph (B), a stationary source is not in compliance with this Act, the Secretary, in consultation with the Administrator, may issue an order directing compliance by the owner or operator of the stationary source.

(B) DATE.—The date described in this subparagraph is—

(i) the date on which the Secretary provides notice to a stationary source that the stationary source is not in compliance with this Act; or

(ii) if the failure to comply with this Act relates to a report submitted under section 5(c)(2), the later of the date on which the Secretary first provides assistance, or a stationary source receives notice, under section 6(d)(2).

(2) NOTICE AND OPPORTUNITY FOR HEARING.—An order under paragraph (1) may be issued only after notice and opportunity for a hearing.

(b) PENALTIES.—

(1) CIVIL PENALTIES.—Any owner or operator of a stationary source that is within a high priority category designated under section 5(a) that violates, or fails to comply with, any order under subsection (a) may, in an action brought in a United States district court, be subject to a civil penalty of not more than $50,000 for each day in which the violation occurs or the failure to comply continues.

(2) CRIMINAL PENALTIES.—Any owner or operator of a stationary source that is within a high priority category designated under section 5(a) that knowingly violates, or fails to comply with, any order under subsection (a) shall—

(A) in the case of a first violation or failure to comply, be fined not less than $5,000 nor more than $50,000 per day of violation or failure to comply, imprisoned for not more than 2 years, or both; and

(B) in the case of a subsequent violation or failure to comply, be fined not less than $10,000 nor more than $50,000 per day of violation or failure to comply, imprisoned for not more than 4 years, or both.

(3) ADMINISTRATIVE PENALTIES.—

(A) PENALTY ORDERS.—The Secretary, in consultation with the Administrator, may impose an administrative penalty order of not more than $50,000 per day, and not more than a maximum of $2,000,000 per year, for failure to comply with an order or directive issued by the Secretary under subsection (a).

(B) NOTICE AND HEARING.—Before issuing an order described in subparagraph (A), the Secretary shall provide to the person against which the penalty is to be assessed—

(i) written notice of the proposed order; and

(ii) the opportunity to request, not later than 30 days after the date on which the notice is received by the person, a hearing on the proposed order.

(c) ABATEMENT ACTIONS.—

(1) IN GENERAL.—If the Secretary, in consultation with local law enforcement officials, determines that the threat of a terrorist attack exists that warrants additional measures to prevent or reduce the possibility of releasing a substance of concern at 1 or more stationary sources, the Secretary shall notify each such stationary source of the elevated threat.

(2) INSUFFICIENT RESPONSE.—If the Secretary determines that a stationary source has not taken appropriate action in response to a notification under paragraph (1), the Secretary shall notify the stationary source, the Administrator, and the Attorney General that actions taken by the stationary source in response to the notification are insufficient.

(3) RELIEF.—

(A) IN GENERAL.—If the Secretary makes a notification under paragraph (2), the Secretary or the Attorney General may secure such relief as is necessary to abate a threat described in paragraph (1), including an order directing the stationary source to cease operation and such other orders as are necessary to protect public health or welfare.

(B) JURISDICTION.—The United States district court for the district in which a threat described in paragraph (1) occurs shall have jurisdiction to grant such relief as the Secretary or Attorney General requests under subparagraph (A).

SEC. 11. PROTECTION OF INFORMATION.

(a) DISCLOSURE EXEMPTION.—Except with respect to certifications under section 6(b), orders issued under section 10(a), and best practices established under section 13(4), all documents provided to the Secretary under this Act, and all information that describes a specific vulnerability at a specific stationary source derived from those documents, shall be exempt from disclosure under section 552 of title 5, United States Code.

(b) STATE AND LOCAL GOVERNMENT AGENCIES.—Notwithstanding any other provision of Federal, State, or local law, no State or local government agency shall be required to disclose any documents provided by a stationary source under this Act, or any information that describes a specific vulnerability at a specific stationary source derived from those documents, except with respect to certifications under section 6(b), orders issued under section 10(a), and best practices established under section 13(4).

(c) DEVELOPMENT OF PROTOCOLS.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall develop such protocols as are necessary to protect the documents described in subsection (a), including the reports submitted under section 5(c)(2) and the information contained in those reports, from unauthorized disclosure.

(2) DEADLINE.—As soon as is practicable, but not later than 1 year after the date of enactment of this Act, the Secretary shall complete the development of protocols under paragraph (1) and shall ensure that the protocols are in effect before the date on which the Administrator receives any report under this Act.

(d) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section affects—

(1) the handling, treatment, or disclosure of information obtained from a stationary source under any other law;

(2) any obligation of the owner or operator of a stationary source to submit or make available information to a Federal, State, or local government agency under, or otherwise to comply with, any other law; or

(3) the public disclosure of information derived from documents or information described in subsection (a), so long as the information disclosed—

(A) would not divulge methods or processes entitled to protection as trade secrets in accordance with the purposes of section 1905 of title 18, United States Code;

(B) does not identify any particular stationary source; and

(C) is not reasonably likely to increase the probability or consequences of a criminal release.

SEC. 12. EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Administrator, in consultation with other Federal agencies and State and local government officials (including local law enforcement and first responders), shall promulgate regulations requiring stationary sources within high priority categories to participate in emergency preparedness exercises, including ''table top'' exercises, training, drills (including evacuation drills), and other activities determined to be appropriate by the Secretary and Administrator.

(b) CONSIDERATIONS.—The Secretary and Administrator shall structure the emergency preparedness exercises under subsection (a), including the contents and frequency of the exercises, based on the threat posed to the public by a criminal release at a stationary source.

SEC. 13. ASSISTANCE TO STATIONARY SOURCES.

The Secretary, in consultation with the Administrator, shall establish an information clearinghouse to assist stationary sources in complying with this Act that includes scalable best practices for—

(1) using methodologies for the assessment of vulnerabilities, threats, and inherently safer technology;

(2) developing prevention preparedness and response plans;

(3) coordinating with local law enforcement, first responders, and duly recognized collective bargaining representatives at stationary sources, or, in the absence of such a representative, other appropriate personnel;

(4) implementing inherently safer technologies, including descriptions of—

(A) combinations of covered sources and substances of concern for which the inherently safer technologies could be appropriate;

(B) the scope of current use and availability of the technologies;

(C) the costs and cost savings resulting from inherently safer technologies;

(D) technological transfer and business practices that enable or encourage inherently safer technologies; and

(E) such other information as the Secretary determines to be appropriate.

SEC. 14. PROTECTION OF WHISTLEBLOWERS.

(a) DISCRIMINATION AGAINST EMPLOYEE.—No employer may discharge any employee or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

(1) notified the employer, the Department of Homeland Security, or any other appropriate agency of Federal, State, or local government of an alleged violation of this Act or of a threat to the health or safety of the public relating to chemical security or the improper release of any harmful chemical;

(2) refused to engage in any practice made unlawful by this Act, if the employee has identified the alleged illegality to the employer;

(3) testified before Congress or at any Federal or State proceeding regarding any provision of this Act or of a threat to the health or safety of the public relating to chemical security or the improper release of any harmful chemical;

(4) commenced, caused to be commenced, or intends to commence or cause to be commenced a proceeding under this Act, or a proceeding for the administration or enforcement of any requirement imposed under this Act;

(5) testified or intends to testify in any proceeding described in paragraph (4); or

(6) assisted or participated or intends to assist or participate in any manner in a proceeding described in paragraph (4) or in any other action to carry out the purposes of this Act.

(b) COMPLAINT, FILING, AND NOTIFICATION.—

(1) IN GENERAL.—Except as provided in subsection (g), any employee who believes that such employee has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which the violation occurred, file (or have any person file on behalf of such employee) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify the Secretary and the person named in the complaint of the filing of the complaint.

(2) INVESTIGATION.—

(A) IN GENERAL.—Upon receipt of a complaint under paragraph (1), the Secretary of Labor shall conduct an investigation of the violation alleged in the complaint.

(B) COMPLETION.—Not later than 30 days after the date on which the Secretary of Labor receives a complaint under paragraph (1), the Secretary of Labor shall—

(i) complete the investigation under subparagraph (A); and

(ii) notify the complainant (and any person acting on behalf of the complainant) and the

person alleged to have committed the violation, in writing, of the results of the investigation.

(C) ORDER.—

(i) IN GENERAL.—Except as provided in clause (ii), not later than 90 days after the date on which the Secretary of Labor receives a complaint under paragraph (1), the Secretary of Labor shall issue an order that provides the relief prescribed by paragraph (3) or denies the complaint.

(ii) EXCEPTION.—Clause (i) shall not apply to a proceeding on a complaint described in clause (i) that is terminated by the Secretary of Labor on the basis of a settlement entered into by the Secretary of Labor and the person alleged to have committed the violation of this section. The Secretary of Labor may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

(iii) PROCEDURE.—An order of the Secretary of Labor under this subparagraph shall be made on the record after notice and opportunity for public hearing. Upon the conclusion of the hearing and the issuance of a recommended decision that the complaint has merit, the Secretary of Labor shall issue a preliminary order providing the relief prescribed in paragraph (3), but may not order compensatory damages, pending a final order.

(3) RELIEF.—

(A) IN GENERAL.—If the Secretary of Labor determines that a violation of subsection (a) alleged in a complaint under paragraph (1) of this subsection has occurred, the Secretary of Labor shall order the person who committed the violation to—

(i) take affirmative action to abate the violation; and

(ii) reinstate the complainant to the former position of such complainant, together with the compensation (including back pay), terms, conditions, and privileges of the employment of such complainant.

(B) COMPENSATORY DAMAGES.—If the Secretary of Labor determines that a violation of subsection (a) alleged in a complaint under paragraph (1) of this subsection has occurred, the Secretary of Labor may order the person who committed the violation to provide compensatory damages to the complainant.

(C) COSTS AND EXPENSES.—If an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorneys' and expert witness fees) reasonably incurred by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued, as determined by the Secretary of Labor.

(D) REQUIRED FINDING.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant has demonstrated that any conduct described in paragraphs (1) through (6) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(c) DISMISSAL.—

(1) IN GENERAL.—The Secretary of Labor shall dismiss a complaint filed under subsection (b)(1), and shall not conduct the investigation required under subsection (b)(2), if the complainant has failed to make a prima facie showing that any conduct described in paragraphs (1) through (6) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(2) OTHER BASIS FOR ACTION.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required by paragraph (1), the Secretary of Labor shall dismiss a complaint filed under subsection (b)(1), and shall not conduct the investigation required under subsection (b)(2), if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of the conduct described in paragraph (1) of this subsection.

(d) DISTRICT COURT REVIEW.—If, by the date that is 1 year after the date on which a complaint was filed under subsection (b)(1), the Secretary of Labor has not issued a final decision regarding the complaint and there is no showing that the delay is due to the bad faith of the complainant, the complainant may bring an action at law or equity for de novo review in an appropriate United States district court, which shall have jurisdiction over such an action without regard to the amount in controversy.

(e) REVIEW BY COURT OF APPEALS.—

(1) IN GENERAL.—Any person adversely affected or aggrieved by an order issued under subsection (b) or (c) may obtain review of the order in the United States court of appeals for the circuit in which the violation alleged in the complaint occurred.

(2) TIMING.—A petition for review under paragraph (1) shall be filed not later than 60 days after the date on which the order described in paragraph (1) is issued.

(3) PROCEDURES.—The procedures under chapter 7 of title 5, United States Code shall apply to any review under this subsection.

(4) STAYS.—Unless ordered by the court, the commencement of proceedings under this subsection shall not operate as a stay of the order of the Secretary of Labor.

(5) EXCLUSIVITY.—An order of the Secretary of Labor with respect to which review could have been obtained under paragraph (1) shall not be the subject of judicial review in any criminal or other civil proceeding.

(f) ENFORCEMENT.—

(1) BY THE SECRETARY OF LABOR.—

(A) IN GENERAL.—If a person has failed to comply with an order issued under subsection (b)(2)(C), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation occurred to enforce the order.

(B) SCOPE OF RELIEF.—In an action brought under this paragraph, the United States district court may grant all appropriate relief, including injunctive relief, compensatory and exemplary damages.

(2) OTHER ENFORCEMENT.—

(A) IN GENERAL.—Not earlier than the date that is 90 days after an order was issued under subsection (b)(2)(C), any person on whose behalf the order was issued may commence a civil action against the person to whom the order was issued in any appropriate United States district court to require compliance with the order.

(B) JURISDICTION.—The United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce an order described in subparagraph (A).

(C) SCOPE OF RELIEF.—In an action brought under this paragraph, the United States district court may award costs of litigation (including reasonable attorney and expert witness fees).

(3) MANDAMUS.—Any nondiscretionary duty imposed under this section shall be enforceable in a mandamus proceeding under section 1361 of title 28, United States Code.

(g) DELIBERATE VIOLATIONS.—Subsection (b)(1) shall not apply with respect to any employee who, acting without direction from the employer of such employee, deliberately causes a violation of any requirement of this Act.

(h) NONPREEMPTION.—Nothing in this section expands, preempts, diminishes, or otherwise affects any right otherwise available to an employee under Federal, State, or local law or any collective bargaining agreement to redress the discharge of such employee or other discriminatory action taken by the employer against such employee.

(i) WHISTLEBLOWER INFORMATION.—

(1) DHS.—The Secretary, in consultation with the Secretary of Labor, shall establish and publicize information regarding mechanisms (including a hotline and a website) through which any person (including an employee, individual residing near a stationary source, first responder, and local official) may report an alleged violation of this Act, a threat to the health or safety of the public relating to chemical security or the improper release of any harmful chemical, or other such information.

(2) POSTING REQUIREMENT.—The provisions of this section shall be prominently posted in any place of employment to which this Act applies.

(j) INVESTIGATION OF ALLEGATIONS.—

(1) IN GENERAL.—The Secretary shall not delay taking appropriate action with respect to an allegation of a substantial safety hazard on the basis of—

(A) the filing of a complaint under subsection (b)(1) arising from the allegation; or

(B) any investigation by the Secretary of Labor, or other action, under this subsection in response to a complaint under subsection (b)(1).

(2) EFFECT OF DETERMINATION.—A determination by the Secretary of Labor under this section that a violation of subsection (a) has not occurred shall not be considered by the Secretary in determining whether a substantial safety hazard exists.

SEC. 15. REGULATIONS.

(a) COORDINATION WITH EXISTING LAW.—In promulgating regulations and establishing enforcement procedures under this Act, the Secretary, in consultation with the Administrator, shall, to the extent practicable and to the extent such requirements meet or exceed the requirements of this Act, minimize duplication of the requirements for risk assessments and response plans under chapter 701 of title 46, United States Code (commonly known as ''the Maritime Transportation Security Act''), the Clean Air Act (42 U.S.C. 7401 et seq.), and other Federal law.

(b) PROMULGATION OF ADDITIONAL REGULATIONS.—In addition to any regulations required under this Act, the Secretary and the Administrator may promulgate such regulations as are necessary to carry out this Act.

SEC. 16. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW OR AGREEMENTS.

Nothing in this Act affects any duty or other requirement imposed under any other Federal, State, or local law or any collective bargaining agreement.

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary and the Administrator such sums as are necessary to carry out this Act, to remain available until expended.

Mr. OBAMA. Mr. President, I want to thank Senator LAUTENBERG, who has been a leader on chemical plant security for more than 20 years. He first introduced chemical safety legislation in 1985 and is an expert on the issue. I am proud to join him in introducing this bill.

The dangers that chemical plants present to our homeland security have been well documented. Industrial chemicals, such as chlorine, ammonia, phosgene, methyl bromide, hydrochloric and various other acids are routinely stored near cities in multi-ton

quantities. These chemicals are extremely hazardous and identical to those used as weapons during the First World War.

Today, there are 111 facilities in the country where a catastrophic chemical release could threaten more than 1 million people. These plants represent some of the most attractive targets for terrorists looking to cause widespread death and destruction.

Despite this, security at our chemical plants is voluntary—left to the individual plant owners. While many chemical plant owners have taken steps to beef up security, too many have not. In Illinois, there have been recent reports by ABC–7 in Chicago of chemical plants with dilapidated fences, insufficient guard forces, and unprotected tanks of hazardous chemicals. These plants are basically stationary weapons of mass destruction. Their security is light, their facilities are easily entered, and their contents are deadly.

Nearly five years after September 11, the Federal Government has done virtually nothing to secure chemical plants. It is one of the great failures of this administration that needs to be addressed this year.

The Lautenberg-Obama bill is a huge step forward. It protects our communities in a responsible, but balanced way. There are features of this bill that should be a part of any chemical security legislation passed by this Congress.

Our legislation is risk-based. While all chemical facilities would have to take a number of concrete steps to improve security, only the highest-risk facilities would be subject to bill's strictest scrutiny and regulation by the Department of Homeland Security. These high-priority facilities would have to perform vulnerability assessments, develop prevention and response plans, submit to unscheduled inspections, and perform practice drills.

Our legislation is strict, but fair. Our bill replaces volunteer security standards with clearly defined Federal duties and regulations. While plant owners would not be able to substitute their own security standards, they would be able to come up with security plans that are tailored to each facility. And while the bill includes tough penalties for noncompliant facilities including strict fines and the threat of shutting down plants, it also minimizes duplicative requirements under other Federal laws.

The Lautenberg-Obama bill also protects state and local rights to establish security standards that match their local needs. States like New Jersey have been leaders in chemical security, and we do not want to cut these efforts off at the knees. The legislation also gives employees a seat at the table, by creating employee security committees, ensuring that employees are part of the security planning process, establishing security training requirements, and establishing tough whistleblower protections.

Our bill also includes all the methods to reduce risk. Our legislation requires security forces, perimeter defenses, hazard mitigation and emergency response. These are the ''guns, gates and guards'' that prevent terrorists from attacking plants and minimize the impact of an attack. But there are other ways to reduce risk that need to be part of the equation. Specifically, by employing safer technologies, we can reduce the attractiveness of chemical plants as a target.

This concept, known as Inherently Safer Technology, involves methods such as changing the flow of chemical processes to avoid dangerous chemical byproducts, reducing the pressures or temperatures of chemical reactions to minimize the risk of explosions, reducing inventories of dangerous chemicals and replacing dangerous chemicals with benign ones. Each one of these methods reduces the danger that chemical plants pose to our communities and makes them less appealing targets for terrorists.

The concept of IST was created thirty years ago by chemical industry insiders, and it has been embraced at different times by the Department of Homeland Security, the Department of Justice, the Environmental Protection Agency, foreign governments and states like New Jersey. Even the chemical industry itself has embraced IST, and many facilities across the country have already employed safer technologies.

Unfortunately, the chemical industry has been lobbying nonstop on this bill. They do not want IST, they do not want protection of state laws and they do not want strict regulations. So far, because the industry wields so much influence in Washington, it's been getting its way. For example, the Department of Homeland Security initially embraced the concept of Inherently Safer Technology in a 2004 draft chemical security plan, only to reverse itself after heavy industry lobbying in 2006. Secretary Chertoff's announcement last week, in front of an audience of chemical industry executives, very closely tracked the industry's talking points.

This is wrong. We cannot allow chemical industry lobbyists to dictate the terms of this debate. We cannot allow our security to be hijacked by corporate interests.

Senator LAUTENBERG and I will fight for strong legislation to pass the Senate. We believe that we can work with chemical plants so that new safety regulations are implemented in a way that is flexible enough for the industry yet stringent enough to protect the American people. I urge my colleagues to come together to pass meaningful security legislation this year.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 415—EXPRESSING THE CONTINUING SUPPORT OF THE SENATE TO THE JUNIOR RESERVE OFFICERS' TRAINING CORPS (JROTC), AND COMMENDING THE EFFORTS OF THAT VITAL PROGRAM AS IT CARRIES OUT ITS MISSION OF INSTILLING THE VALUES OF CITIZENSHIP AND SERVICE IN THE HEARTS AND MINDS OF THE YOUTH OF THE UNITED STATES.

Mr. ENSIGN submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 415

Whereas, since its inception in 1913, the Junior Reserve Officers' Training Corps has successfully functioned for over 90 years;

Whereas the Junior Reserve Officers' Training Corps has provided citizenship training, discipline, stability, and patriotic values to the youth of the United States throughout the Nation;

Whereas millions of students have benefitted from the Junior Reserve Officers' Training Corps;

Whereas, in 2005, there were over 500,000 students enrolled in Junior Reserve Officers' Training Corps programs in approximately 3,400 secondary schools; and

Whereas the Junior Reserve Officers' Training Corps is taught by a dedicated cadre of retired officers and staff non-commissioned officers of the Armed Forces who love the United States and who are working to secure its future: Now, therefore, be it

Resolved, That the Senate—

(1) expresses appreciation to the Junior Reserve Officers' Training Corps for—

(A) the leadership training that the program provides to the youth of the United States; and

(B) the outstanding results that the program has achieved;

(2) commends the professionalism and dedication displayed daily by the retired members of the United States Armed Forces who serve as instructors in the Junior Reserve Officers' Training Corps; and

(3) proudly honors the modern-day members of the Junior Reserve Officers' Training Corps, who represent a promising group of young men and women who continue to strive to achieve their full potential.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3191. Mr. FRIST (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes.

SA 3192. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill S. 2454, supra.

SA 3193. Mr. ALEXANDER (for himself, Mr. CORNYN, Mr. ISAKSON, Mr. COCHRAN, Mr. SANTORUM, Mr. FRIST, Mr. MCCONNELL, and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3194. Ms. MIKULSKI submitted an amendment intended to be proposed to

amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3195. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3196. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3197. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3198. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3199. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3200. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3201. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3202. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3203. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3204. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3205. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3206. Mr. KYL (for himself and Mr. CORNYN) proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3207. Mr. CORNYN proposed an amendment to amendment SA 3206 proposed by Mr. KYL (for himself and Mr. CORNYN) to the amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3208. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3209. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3210. Mr. BINGAMAN proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra.

SA 3211. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3212. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

SA 3213. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3191. Mr. FRIST (for himself and Mr. REID) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DEATHS AT UNITED STATES-MEXICO BORDER.

(a) COLLECTION OF STATISTICS.—The Commissioner of the Bureau of Customs and Border Protection shall collect statistics relating to deaths occurring at the border between the United States and Mexico, including—

(1) the causes of the deaths; and

(2) the total number of deaths.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner of the Bureau of Customs and Border Protection shall submit to the Secretary a report that—

(1) analyzes trends with respect to the statistics collected under subsection (a) during the preceding year; and

(2) recommends actions to reduce the deaths described in subsection (a).

SA 3192. Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Comprehensive Immigration Reform Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 3. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—Except as otherwise provided, the term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

SEC. 4. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be invalid for any reason, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any other person or circumstance shall not be affected by such holding.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

''SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

''(1) 2,000 in fiscal year 2006;
''(2) 2,400 in fiscal year 2007;
''(3) 2,400 in fiscal year 2008;
''(4) 2,400 in fiscal year 2009;
''(5) 2,400 in fiscal year 2010; and
''(6) 2,400 in fiscal year 2011;

''(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.''.

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector.

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a) and (b), and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(d) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a) and (b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected

communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US-VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US-VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''entry and exit documents'' and inserting ''travel and entry documents and evidence of status'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282) is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System; and

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the

United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint;

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 3 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

''554. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements.''.

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or commend of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

Subtitle D—Border Tunnel Prevention Act

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Border Tunnel Prevention Act''.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 554. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 554. Border tunnels and passages.''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''554,'' before ''1425,''.

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by section 132.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.''.

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any

employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding instituted in the United States District Court for the District of Columbia and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (except for the provision providing an effective date for section 203 of the Comprehensive Reform Act of 2006), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country, for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 110 Stat. 3009-627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an

alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to any act that occurred on or after such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed

for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(h)(3));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses.''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs law, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.le, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry.''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall befined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

''CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or

domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).

''§ 1555. Exception for refugees, asylees, and other vulnerable persons

''(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

''(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

''(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

''(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

''(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

(2) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

''(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended—

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date

of the enactment of this Act, with respect to conduct occurring on or after that date.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''.

(3) in subsection (y)—

(A) in the header, by striking ''ADMITTED UNDER NONIMMIGRANT VISAS'' and inserting ''IN A NONIMMIGRANT CLASSIFICATION'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses.''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

SEC. 217. CONSTRUCTION.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction.''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 221. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 222. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 223. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by adding at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered before, on, or after such date.

SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''EXPEDITED REMOVAL OF CRIMINAL ALIENS'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has not been lawfully admitted to the United States for permanent residence; and

''(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—'': and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting ''or stay, whether temporarily or otherwise,'' after ''enjoin''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking ''Any'' and inserting ''Except as provided in clause (vii), any'';

(2) in subparagraph (A), by inserting after clause (vi) the following:

''(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(vii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration

laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 10,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States.

(2) DETERMINATION OF LOCATION.—The location of any detention facility built or acquired in accordance with this subsection shall be determined with the concurrence of the Secretary by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring detention facilities

under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with paragraph (1).

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

''SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.

''(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

''(1) IN GENERAL.—It is unlawful for an employer—

''(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to such employment; or

''(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

''(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing or with reason to know that the alien is (or has become) an unauthorized alien with respect to such employment.

''(3) USE OF LABOR THROUGH CONTRACT.—In this section, an employer who uses a contract, subcontract, or exchange, entered into, renegotiated, or extended after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, to obtain the labor of an alien in the United States knowing, or with reason to know, that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien for employment in the United States in violation of paragraph (1)(A).

''(4) REBUTTABLE PRESUMPTION OF UNLAWFUL HIRING.—If the Secretary determines that an employer has hired more than 10 unauthorized aliens during a calendar year, a rebuttable presumption is created for the purpose of a civil enforcement proceeding, that the employer knew or had reason to know that such aliens were unauthorized.

''(5) DEFENSE.—

''(A) IN GENERAL.—Subject to subparagraph (B), an employer that establishes that the employer has complied in good faith with the requirements of subsections (c) and (d) has established an affirmative defense that the employer has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

''(B) EXCEPTION.—Until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is permitted to participate in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) without a showing of compliance with subsection (d).

''(b) ORDER OF INTERNAL REVIEW AND CERTIFICATION OF COMPLIANCE.—

''(1) AUTHORITY TO REQUIRE CERTIFICATION.—If the Secretary has reasonable cause to believe that an employer has failed to comply with this section, the Secretary is authorized, at any time, to require that the employer certify that the employer is in compliance with this section, or has instituted a program to come into compliance.

''(2) CONTENT OF CERTIFICATION.—Not later than 60 days after the date an employer receives a request for a certification under paragraph (1) the chief executive officer or similar official of the employer shall certify under penalty of perjury that—

''(A) the employer is in compliance with the requirements of subsections (c) and (d); or

''(B) that the employer has instituted a program to come into compliance with such requirements.

''(3) EXTENSION.—The 60-day period referred to in paragraph (2), may be extended by the Secretary for good cause, at the request of the employer.

''(4) PUBLICATION.—The Secretary is authorized to publish in the Federal Register standards or methods for certification and for specific record-keeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

''(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall take all reasonable steps to verify that the individual is eligible for such employment. Such steps shall include meeting the requirements of subsection (d) and the following paragraphs:

''(1) ATTESTATION BY EMPLOYER.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The employer shall attest, under penalty of perjury and on a form prescribed by the Secretary, that the employer has verified the identity and eligibility for employment of the individual by examining—

''(I) a document described in subparagraph (B); or

''(II) a document described in subparagraph (C) and a document described in subparagraph (D).

''(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(iii) STANDARDS FOR EXAMINATION.—An employer has complied with the requirement of this paragraph with respect to examination of documentation if, based on the totality of the circumstances, a reasonable person would conclude that the document examined is genuine and establishes the individual's identity and eligibility for employment in the United States.

''(iv) REQUIREMENTS FOR EMPLOYMENT ELIGIBILITY SYSTEM PARTICIPANTS.—A participant in the Electronic Employment Verification System established under subsection (d), regardless of whether such participation is voluntary or mandatory, shall be permitted to utilize any technology that is consistent with this section and with any regulation or guidance from the Secretary to streamline the procedures to comply with the attestation requirement, and to comply with the employment eligibility verification requirements contained in this section.

''(B) DOCUMENTS ESTABLISHING BOTH EMPLOYMENT ELIGIBILITY AND IDENTITY.—A document described in this subparagraph is an individual's—

''(i) United States passport; or

''(ii) permanent resident card or other document designated by the Secretary, if the document—

''(I) contains a photograph of the individual and such other personal identifying information relating to the individual that the Secretary proscribes in regulations is sufficient for the purposes of this subparagraph;

''(II) is evidence of eligibility for employment in the United States; and

''(III) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(C) DOCUMENTS EVIDENCING EMPLOYMENT ELIGIBILITY.—A document described in this subparagraph is an individual's—

''(i) social security account number card issued by the Commissioner of Social Security (other than a card which specifies on its face that the issuance of the card does not authorize employment in the United States); or

''(ii) any other documents evidencing eligibility of employment in the United States, if—

''(I) the Secretary has published a notice in the Federal Register stating that such document is acceptable for purposes of this subparagraph; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(D) DOCUMENTS ESTABLISHING IDENTITY OF INDIVIDUAL.—A document described in this subparagraph is an individual's—

''(i) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that complies with the requirements of the REAL ID Act of 2005 (division B of Public Law 109–13; 119 Stat. 302);

''(ii) driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that is not in compliance with the requirements of the REAL ID Act of 2005, if the license or identity card—

''(I) is not required by the Secretary to comply with such requirements; and

''(II) contains the individual's photograph or information, including the individual's name, date of birth, gender, and address; and

''(iii) identification card issued by a Federal agency or department, including a branch of the Armed Forces, or an agency, department, or entity of a State, or a Native American tribal document, provided that such card or document—

''(I) contains the individual's photograph or information including the individual's name, date of birth, gender, eye color, and address; and

''(II) contains security features to make the card resistant to tampering, counterfeiting, and fraudulent use; or

''(iv) in the case of an individual who is under 16 years of age who is unable to present a document described in clause (i), (ii), or (iii), a document of personal identity of such other type that—

''(I) the Secretary determines is a reliable means of identification; and

''(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use.

''(E) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

''(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B), (C), or (D) is not reliable to establish identity or eligibility for employment (as the case may be) or is being used fraudulently to an unacceptable degree, the Secretary is authorized to prohibit, or impose conditions, on the use of such document or class of documents for purposes of this subsection.

''(ii) REQUIREMENT FOR PUBLICATION.—The Secretary shall publish notice of any findings under clause (i) in the Federal Register.

''(2) ATTESTATION OF EMPLOYEE.—

''(A) REQUIREMENTS.—

''(i) IN GENERAL.—The individual shall attest, under penalty of perjury on the form prescribed by the Secretary, that the individual is a national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Secretary to be hired, recruited or referred for a fee, in the United States.

''(ii) SIGNATURE FOR EXAMINATION.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

''(B) PENALTIES.—An individual who falsely represents that the individual is eligible for employment in the United States in an attestation required by subparagraph (A) shall, for each such violation, be subject to a fine of not more than $5,000, a term of imprisonment not to exceed 3 years, or both.

''(3) RETENTION OF ATTESTATION.—An employer shall retain a paper, microfiche, microfilm, or electronic version of an attestation submitted under paragraph (1) or (2) for an individual and make such attestations available for inspection by an officer of the Department of Homeland Security, any other person designated by the Secretary, the Special Counsel for Immigration-Related Unfair Employment Practices of the Department of Justice, or the Secretary of Labor during a period beginning on the date of the hiring, or recruiting or referring for a fee, of the individual and ending—

''(A) in the case of the recruiting or referral for a fee (without hiring) of an individual, 7 years after the date of the recruiting or referral; or

''(B) in the case of the hiring of an individual the later of—

''(i) 7 years after the date of such hiring;

''(ii) 1 year after the date the individual's employment is terminated; or

''(iii) in the case of an employer or class of employers, a period that is less than the applicable period described in clause (i) or (ii) if the Secretary reduces such period for such employer or class of employers.

''(4) DOCUMENT RETENTION AND RECORD KEEPING REQUIREMENTS.—

''(A) RETENTION OF DOCUMENTS.—An employer shall retain, for the applicable period described in paragraph (3), the following documents:

''(i) IN GENERAL.—Notwithstanding any other provision of law, the employer shall copy all documents presented by an individual pursuant to this subsection and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall reflect the signature of the employer and the individual and the date of receipt of such documents.

''(ii) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

''(B) RETENTION OF SOCIAL SECURITY CORRESPONDENCE.—The employer shall maintain records related to an individual of any no-match notice from the Commissioner of Social Security regarding the individual's name or corresponding social security account number and the steps taken to resolve each issue described in the no-match notice.

''(C) RETENTION OF CLARIFICATION DOCUMENTS.—The employer shall maintain records of any actions and copies of any correspondence or action taken by the employer to clarify or resolve any issue that raises reasonable doubt as to the validity of the individual's identity or eligibility for employment in the United States.

''(D) RETENTION OF OTHER RECORDS.—The Secretary may require that an employer retain copies of additional records related to the individual for the purposes of this section.

''(5) PENALTIES.—An employer that fails to comply with the requirement of this subsection shall be subject to the penalties described in subsection (e)(4)(B).

''(6) NO AUTHORIZATION OF NATIONAL IDENTIFICATION CARDS.—Nothing in this section may be construed to authorize, directly or indirectly, the issuance, use, or establishment of a national identification card.

''(d) ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—

''(1) REQUIREMENT FOR SYSTEM.—The Secretary, in cooperation with the Commissioner of Social Security, shall implement an Electronic Employment Verification System (referred to in this subsection as the 'System') as described in this subsection.

''(2) MANAGEMENT OF SYSTEM.—

''(A) IN GENERAL.—The Secretary shall, through the System—

''(i) provide a response to an inquiry made by an employer through the Internet or other electronic media or over a telephone line regarding an individual's identity and eligibility for employment in the United States;

''(ii) establish a set of codes to be provided through the System to verify such identity and authorization; and

''(iii) maintain a record of each such inquiry and the information and codes provided in response to such inquiry.

''(B) INITIAL RESPONSE.—Not later than 3 days after an employer submits an inquiry to the System regarding an individual, the Secretary shall provide, through the System, to the employer—

''(i) if the System is able to confirm the individual's identity and eligibility for employment in the United States, a confirmation notice, including the appropriate codes on such confirmation notice; or

''(ii) if the System is unable to confirm the individual's identity or eligibility for employment in the United States, a tentative nonconfirmation notice, including the appropriate codes for such nonconfirmation notice.

''(C) VERIFICATION PROCESS IN CASE OF A TENTATIVE NONCONFIRMATION NOTICE.—

''(i) IN GENERAL.—If a tentative nonconfirmation notice is issued under subparagraph (B)(ii), not later than 10 days after the date an individual submits information to contest such notice under paragraph (7)(C)(ii)(III), the Secretary, through the System, shall issue a final confirmation notice or a final nonconfirmation notice to the employer, including the appropriate codes for such notice.

''(ii) DEVELOPMENT OF PROCESS.—The Secretary shall consult with the Commissioner of Social Security to develop a verification process to be used to provide a final confirmation notice or a final nonconfirmation notice under clause (i).

''(D) DESIGN AND OPERATION OF SYSTEM.—The Secretary, in consultation with the Commissioner of Social Security, shall design and operate the System—

''(i) to maximize reliability and ease of use by employers in a manner that protects and maintains the privacy and security of the information maintained in the System;

''(ii) to respond to each inquiry made by an employer; and

''(iii) to track and record any occurrence when the System is unable to receive such an inquiry;

''(iv) to include appropriate administrative, technical, and physical safeguards to prevent unauthorized disclosure of personal information;

''(v) to allow for monitoring of the use of the System and provide an audit capability; and

''(vi) to have reasonable safeguards, developed in consultation with the Attorney General, to prevent employers from engaging in unlawful discriminatory practices, based on national origin or citizenship status.

''(E) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security shall establish a reliable, secure method to provide through the

System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and social security account number provided in an inquiry by an employer match such information maintained by the Commissioner in order to confirm the validity of the information provided;

''(ii) a determination of whether such social security account number was issued to the named individual;

''(iii) a determination of whether such social security account number is valid for employment in the United States; and

''(iv) a confirmation notice or a nonconfirmation notice under subparagraph (B) or (C), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

''(F) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall establish a reliable, secure method to provide through the System, within the time periods required by subparagraphs (B) and (C)—

''(i) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer match such information maintained by the Secretary in order to confirm the validity of the information provided;

''(ii) a determination of whether such number was issued to the named individual;

''(iii) a determination of whether the individual is authorized to be employed in the United States; and

''(iv) any other related information that the Secretary may require.

''(G) UPDATING INFORMATION.—The Commissioner of Social Security and the Secretary shall update the information maintained in the System in a manner that promotes maximum accuracy and shall provide a process for the prompt correction of erroneous information.

''(3) REQUIREMENTS FOR PARTICIPATION.—Except as provided in paragraphs (4) and (5), the Secretary shall require employers to participate in the System as follows:

''(A) CRITICAL EMPLOYERS.—

''(i) REQUIRED PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require any employer or class of employers to participate in the System, with respect to employees hired by the employer prior to, on, or after such date of enactment, if the Secretary determines, in the Secretary's sole and unreviewable discretion, such employer or class of employer is—

''(I) part of the critical infrastructure of the United States; or

''(II) directly related to the national security or homeland security of the United States.

''(ii) DISCRETIONARY PARTICIPATION.—As of the date that is 180 days after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary may require an additional employer or class of employers to participate in the System with respect to employees hired on or after such date if the Secretary designates such employer or class of employers, in the Secretary's sole and unreviewable discretion, as a critical employer based on immigration enforcement or homeland security needs.

''(B) LARGE EMPLOYERS.—Not later than 2 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with 5,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(C) MIDSIZED EMPLOYERS.—Not later than 3 years after the date of enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require an employer with less than 5,000 employees and with 1,000 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(D) SMALL EMPLOYERS.—Not later than 4 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers with less than 1,000 employees and with 250 or more employees in the United States to participate in the System, with respect to all employees hired by the employer after the date the Secretary requires such participation.

''(E) REMAINING EMPLOYERS.—Not later than 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall require all employers in the United States to participate in the System, with respect to all employees hired by an employer after the date the Secretary requires such participation.

''(F) REQUIREMENT TO PUBLISH.—The Secretary shall publish in the Federal Register the requirements for participation in the System as described in subparagraphs (A), (B), (C), (D), and (E) prior to the effective date of such requirements.

''(4) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (3), the Secretary has the authority, in the Secretary's sole and unreviewable discretion—

''(A) to permit any employer that is not required to participate in the System under paragraph (3) to participate in the System on a voluntary basis; and

''(B) to require any employer that is required to participate in the System under paragraph (3) with respect to newly hired employees to participate in the System with respect to all employees hired by the employer prior to, on, or after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, if the Secretary has reasonable cause to believe that the employer has engaged in violations of the immigration laws.

''(5) WAIVER.—The Secretary is authorized to waive or delay the participation requirements of paragraph (3) with respect to any employer or class of employers if the Secretary provides notice to Congress of such waiver prior to the date such waiver is granted.

''(6) CONSEQUENCE OF FAILURE TO PARTICIPATE.—If an employer is required to participate in the System and fails to comply with the requirements of the System with respect to an individual—

''(A) such failure shall be treated as a violation of subsection (a)(1)(B) of this section with respect to such individual; and

''(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A) of this section, however such presumption may not apply to a prosecution under subsection (f)(1).

''(7) SYSTEM REQUIREMENTS.—

''(A) IN GENERAL.—An employer that participates in the System, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, shall—

''(i) obtain from the individual and record on the form designated by the Secretary—

''(I) the individual's social security account number; and

''(II) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(2), such identification or authorization number that the Secretary shall require; and

''(ii) retain the original of such form and make such form available for inspection for the periods and in the manner described in subsection (c)(3).

''(B) SEEKING VERIFICATION.—The employer shall submit an inquiry through the System to seek confirmation of the individual's identity and eligibility for employment in the United States—

''(i) not later than 3 working days (or such other reasonable time as may be specified by the Secretary of Homeland Security) after the date of the hiring, or recruiting or referring for a fee, of the individual (as the case may be); or

''(ii) in the case of an employee hired prior to the date of enactment of the Comprehensive Immigration Reform Act of 2006, at such time as the Secretary shall specify.

''(C) CONFIRMATION OR NONCONFIRMATION.—

''(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (2)(B)(i) for an individual, the employer shall record, on the form specified by the Secretary, the appropriate code provided in such notice.

''(ii) NONCONFIRMATION AND VERIFICATION.—

''(I) NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (2)(B)(ii) for an individual, the employer shall inform such individual of the issuances of such notice in writing and the individual may contest such nonconfirmation notice.

''(II) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice under subclause (I) within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form specified by the Secretary, the appropriate code provided in the nonconfirmation notice.

''(III) CONTEST.—If the individual contests the tentative nonconfirmation notice under subclause (I), the individual shall submit appropriate information to contest such notice to the System within 10 days of receiving notice from the individual's employer and shall utilize the verification process developed under paragraph (2)(C)(ii).

''(IV) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION.—A tentative nonconfirmation notice shall remain in effect until a final such notice becomes final under clause (II) or a final confirmation notice or final nonconfirmation notice is issued by the System.

''(V) PROHIBITION ON TERMINATION.—An employer may not terminate the employment of an individual based on a tentative nonconfirmation notice until such notice becomes final under clause (II) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall apply to a termination of employment for any reason other than because of such a failure.

''(VI) RECORDING OF CONCLUSION ON FORM.—If a final confirmation or nonconfirmation is provided by the System regarding an individual, the employer shall record on the form designated by the Secretary the appropriate code that is provided under the System to indicate a confirmation or nonconfirmation of the identity and employment eligibility of the individual.

''(D) CONSEQUENCES OF NONCONFIRMATION.—

''(i) TERMINATION OF CONTINUED EMPLOYMENT.—If the employer has received a final nonconfirmation regarding an individual, the employer shall terminate the employment, recruitment, or referral of the individual. Such employer shall provide to the Secretary any information relating to the nonconfirmed individual that the Secretary determines would assist the Secretary in enforcing or administering the immigration laws. If the employer continues to employ,

recruit, or refer the individual after receiving final nonconfirmation, a rebuttable presumption is created that the employer has violated subsections (a)(1)(A) and (a)(2). Such presumption may not apply to a prosecution under subsection (f)(1).

''(8) PROTECTION FROM LIABILITY.—No employer that participates in the System shall be liable under any law for any employment-related action taken with respect to an individual in good faith reliance on information provided by the System.

''(9) LIMITATION ON USE OF THE SYSTEM.—Notwithstanding any other provision of law, nothing in this subsection shall be construed to permit or allow any department, bureau, or other agency of the United States to utilize any information, database, or other records used in the System for any purpose other than as provided for under this subsection.

''(10) MODIFICATION AUTHORITY.—The Secretary, after notice is submitted to Congress and provided to the public in the Federal Register, is authorized to modify the requirements of this subsection, including requirements with respect to completion of forms, method of storage, attestations, copying of documents, signatures, methods of transmitting information, and other operational and technical aspects to improve the efficiency, accuracy, and security of the System.

''(11) FEES.—The Secretary is authorized to require any employer participating in the System to pay a fee or fees for such participation. The fees may be set at a level that will recover the full cost of providing the System to all participants. The fees shall be deposited and remain available as provided in subsection (m) and (n) of section 286 and the System is providing an immigration adjudication and naturalization service for purposes of section 286(n).

''(12) REPORT.—Not later than 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary shall submit to Congress a report on the capacity, systems integrity, and accuracy of the System.

''(e) COMPLIANCE.—

''(1) COMPLAINTS AND INVESTIGATIONS.—The Secretary shall establish procedures—

''(A) for individuals and entities to file complaints regarding potential violations of subsection (a);

''(B) for the investigation of those complaints that the Secretary deems it appropriate to investigate; and

''(C) for the investigation of such other violations of subsection (a), as the Secretary determines are appropriate.

''(2) AUTHORITY IN INVESTIGATIONS.—

''(A) IN GENERAL.—In conducting investigations and hearings under this subsection, officers and employees of the Department of Homeland Security—

''(i) shall have reasonable access to examine evidence of any employer being investigated; and

''(ii) if designated by the Secretary of Homeland Security, may compel by subpoena the attendance of witnesses and the production of evidence at any designated place in an investigation or case under this subsection.

''(B) FAILURE TO COOPERATE.—In case of refusal to obey a subpoena lawfully issued under subparagraph (A)(ii), the Secretary may request that the Attorney General apply in an appropriate district court of the United States for an order requiring compliance with such subpoena, and any failure to obey such order may be punished by such court as contempt.

''(C) DEPARTMENT OF LABOR.—The Secretary of Labor shall have the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)) to ensure compliance with the provisions of this title, or any regulation or order issued under this title.

''(3) COMPLIANCE PROCEDURES.—

''(A) PREPENALTY NOTICE.—If the Secretary has reasonable cause to believe that there has been a violation of a requirement of this section and determines that further proceedings related to such violation are warranted, the Secretary shall issue to the employer concerned a written notice of the Secretary's intention to issue a claim for a fine or other penalty. Such notice shall—

''(i) describe the violation;

''(ii) specify the laws and regulations allegedly violated;

''(iii) disclose the material facts which establish the alleged violation; and

''(iv) inform such employer that the employer shall have a reasonable opportunity to make representations as to why a claim for a monetary or other penalty should not be imposed.

''(B) REMISSION OR MITIGATION OF PENALTIES.—

''(i) PETITION BY EMPLOYER.—Whenever any employer receives written notice of a fine or other penalty in accordance with subparagraph (A), the employer may file within 30 days from receipt of such notice, with the Secretary a petition for the remission or mitigation of such fine or penalty, or a petition for termination of the proceedings. The petition may include any relevant evidence or proffer of evidence the employer wishes to present, and shall be filed and considered in accordance with procedures to be established by the Secretary.

''(ii) REVIEW BY SECRETARY.—If the Secretary finds that such fine or other penalty was incurred erroneously, or finds the existence of such mitigating circumstances as to justify the remission or mitigation of such fine or penalty, the Secretary may remit or mitigate such fine or other penalty on the terms and conditions as the Secretary determines are reasonable and just, or order termination of any proceedings related to the notice. Such mitigating circumstances may include good faith compliance and participation in, or agreement to participate in, the System, if not otherwise required.

''(iii) APPLICABILITY.—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1)(A), (1)(B), or (2) of subsection (a) or of any other requirements of this section.

''(C) PENALTY CLAIM.—After considering evidence and representations offered by the employer pursuant to subparagraph (B), the Secretary shall determine whether there was a violation and promptly issue a written final determination setting forth the findings of fact and conclusions of law on which the determination is based and the appropriate penalty.

''(4) CIVIL PENALTIES.—

''(A) HIRING OR CONTINUING TO EMPLOY UNAUTHORIZED ALIENS.—Any employer that violates any provision of paragraph (1)(A) or (2) of subsection (a) shall pay civil penalties as follows:

''(i) Pay a civil penalty of not less than $500 and not more than $4,000 for each unauthorized alien with respect to each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $4,000 and not more than $10,000 for each unauthorized alien with respect to each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than $6,000 and not more than $20,000 for each unauthorized alien with respect to each such violation.

''(B) RECORD KEEPING OR VERIFICATION PRACTICES.—Any employer that violates or fails to comply with the requirements of subsection (b), (c), or (d), shall pay a civil penalty as follows:

''(i) Pay a civil penalty of not less than $200 and not more than $2,000 for each such violation.

''(ii) If the employer has previously been fined 1 time under this subparagraph, pay a civil penalty of not less than $400 and not more than $4,000 for each such violation.

''(iii) If the employer has previously been fined more than 1 time under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of $6,000 for each such violation.

''(C) OTHER PENALTIES.—Notwithstanding subparagraphs (A) and (B), the Secretary may impose additional penalties for violations, including cease and desist orders, specially designed compliance plans to prevent further violations, suspended fines to take effect in the event of a further violation, and in appropriate cases, the civil penalty described in subsection (g)(2).

''(D) REDUCTION OF PENALTIES.—Notwithstanding subparagraphs (A), (B), and (C), the Secretary is authorized to reduce or mitigate penalties imposed upon employers, based upon factors including the employer's hiring volume, compliance history, good faith implementation of a compliance program, participation in a temporary worker program, and voluntary disclosure of violations of this subsection to the Secretary.

''(E) ADJUSTMENT FOR INFLATION.—All penalties in this section may be adjusted every 4 years to account for inflation, as provided by law.

''(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in the Court of Appeals for the appropriate circuit for review of the order. The filing of a petition as provided in this paragraph shall stay the Secretary's determination until entry of judgment by the court. The burden shall be on the employer to show that the final determination was not supported by substantial evidence. The Secretary is authorized to require that the petitioner provide, prior to filing for review, security for payment of fines and penalties through bond or other guarantee of payment acceptable to the Secretary.

''(6) ENFORCEMENT OF ORDERS.—If an employer fails to comply with a final determination issued against that employer under this subsection, and the final determination is not subject to review as provided in paragraph (5), the Attorney General may file suit to enforce compliance with the final determination in any appropriate district court of the United States. In any such suit, the validity and appropriateness of the final determination shall not be subject to review.

''(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

''(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than $20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 6 months for the entire pattern or practice, or both.

''(2) ENJOINING OF PATTERN OR PRACTICE VIOLATIONS.—If the Secretary or the Attorney General has reasonable cause to believe that an employer is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2)

of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

''(g) PROHIBITION OF INDEMNITY BONDS.—

''(1) PROHIBITION.—It is unlawful for an employer, in the hiring, recruiting, or referring for a fee, of an individual, to require the individual to post a bond or security, to pay or agree to pay an amount, or otherwise to provide a financial guarantee or indemnity, against any potential liability arising under this section relating to such hiring, recruiting, or referring of the individual.

''(2) CIVIL PENALTY.—Any employer which is determined, after notice and opportunity for mitigation of the monetary penalty under subsection (e), to have violated paragraph (1) of this subsection shall be subject to a civil penalty of $10,000 for each violation and to an administrative order requiring the return of any amounts received in violation of such paragraph to the employee or, if the employee cannot be located, to the Employer Compliance Fund established under section 286(w).

''(h) PROHIBITION ON AWARD OF GOVERNMENT CONTRACTS, GRANTS, AND AGREEMENTS.—

''(1) EMPLOYERS WITH NO CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—If an employer who does not hold a Federal contract, grant, or cooperative agreement is determined by the Secretary to be a repeat violator of this section or is convicted of a crime under this section, the employer shall be debarred from the receipt of a Federal contract, grant, or cooperative agreement for a period of 2 years. The Secretary or the Attorney General shall advise the Administrator of General Services of such a debarment, and the Administrator of General Services shall list the employer on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs for a period of 2 years.

''(B) WAIVER.—The Administrator of General Services, in consultation with the Secretary and the Attorney General, may waive operation of this subsection or may limit the duration or scope of the debarment.

''(2) EMPLOYERS WITH CONTRACTS, GRANTS, OR AGREEMENTS.—

''(A) IN GENERAL.—An employer who holds a Federal contract, grant, or cooperative agreement and is determined by the Secretary of Homeland Secretary to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(B) NOTICE TO AGENCIES.—Prior to debarring the employer under subparagraph (A), the Secretary, in cooperation with the Administrator of General Services, shall advise any agency or department holding a contract, grant, or cooperative agreement with the employer of the Government's intention to debar the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years.

''(C) WAIVER.—After consideration of the views of any agency or department that holds a contract, grant, or cooperative agreement with the employer, the Secretary may, in lieu of debarring the employer from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 2 years, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take alternation shall not be judicially reviewed.

''(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debarment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

''(i) MISCELLANEOUS PROVISIONS.—

''(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) eligible to be employed in the United States, the Secretary shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

''(2) PREEMPTION.—The provisions of this section preempt any State or local law—

''(A) imposing civil or criminal sanctions (other than through licensing and similar laws) upon those who employ, or recruit or refer for a fee for employment, unauthorized aliens; or

''(B) requiring, as a condition of conducting, continuing, or expanding a business, that a business entity—

''(i) provide, build, fund, or maintain a shelter, structure, or designated area for use by day laborers at or near its place of business; or

''(ii) take other steps that facilitate the employment of day laborers by others.

''(j) DEPOSIT OF AMOUNTS RECEIVED.—Except as otherwise specified, civil penalties collected under this section shall be deposited by the Secretary into the Employer Compliance Fund established under section 286(w).

''(k) DEFINITIONS.—In this section:

''(1) EMPLOYER.—The term 'employer' means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

''(2) NO-MATCH NOTICE.—The term 'no-match notice' means written notice from the Commissioner of Social Security to an employer reporting earnings on a Form W–2 that an employee name or corresponding social security account number fail to match records maintained by the Commissioner.

''(3) SECRETARY.—Except as otherwise provided, the term 'Secretary' means the Secretary of Homeland Security.

''(4) UNAUTHORIZED ALIEN.—The term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

''(A) an alien lawfully admitted for permanent residence; or

''(B) authorized to be so employed by this Act or by the Secretary.''.

(b) CONFORMING AMENDMENT.—

(1) AMENDMENT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 8 U.S.C. 1324a) are repealed.

(2) CONSTRUCTION.—Nothing in this subsection or in subsection (d) of section 274A, as amended by subsection (a), may be construed to limit the authority of the Secretary to allow or continue to allow the participation of employers who participated in the basic pilot program under such sections 401, 402, 403, 404, and 405 in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date that is 180 days after the date of the enactment of this Act.

SEC. 302. EMPLOYER COMPLIANCE FUND.

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following new subsection:

''(w) EMPLOYER COMPLIANCE FUND.—

''(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the 'Employer Compliance Fund' (referred to in this subsection as the 'Fund').

''(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund all civil monetary penalties collected by the Secretary of Homeland Security under section 274A.

''(3) PURPOSE.—Amounts refunded to the Secretary from the Fund shall be used for the purposes of enhancing and enforcing employer compliance with section 274A.

''(4) AVAILABILITY OF FUNDS.—Amounts deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Secretary of Homeland Security.''.

SEC. 303. ADDITIONAL WORKSITE ENFORCEMENT AND FRAUD DETECTION AGENTS.

(a) WORKSITE ENFORCEMENT.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for investigators dedicated to enforcing compliance with sections 274 and 274A of the Immigration and Nationality Act (8 U.S.C. 1324, and 1324a) during the 5-year period beginning on the date of the enactment of this Act.

(b) FRAUD DETECTION.—The Secretary shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for agents of the Bureau of Immigration and Customs Enforcement dedicated to immigration fraud detection during the 5-year period beginning on the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this section.

SEC. 304. CLARIFICATION OF INELIGIBILITY FOR MISREPRESENTATION.

Section 212(a)(6)(C)(ii)(I) (8 U.S.C. 1182(a)(6)(C)(ii)(I)), is amended by striking ''citizen'' and inserting ''national''.

TITLE IV—NONIMMIGRANT AND IMMIGRANT VISA REFORM

Subtitle A—Temporary Guest Workers

SEC. 401. IMMIGRATION IMPACT STUDY.

(a) EFFECTIVE DATE.—Any regulation that would increase the number of aliens who are eligible for legal status may not take effect before 90 days after the date on which the Director of the Bureau of the Census submits a report to Congress under subsection (c).

(b) STUDY.—The Director of the Bureau of the Census, jointly with the Secretary, the Secretary of Agriculture, the Secretary of Education, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Attorney General, and the Administrator of the Environmental Protection Agency, shall undertake a study examining the impacts of the current and proposed annual grants of

legal status, including immigrant and nonimmigrant status, along with the current level of illegal immigration, on the infrastructure of and quality of life in the United States.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of the Bureau of the Census shall submit to Congress a report on the findings of the study required by subsection (b), including the following information:

(1) An estimate of the total legal and illegal immigrant populations of the United States, as they relate to the total population.

(2) The projected impact of legal and illegal immigration on the size of the population of the United States over the next 50 years, which regions of the country are likely to experience the largest increases, which small towns and rural counties are likely to lose their character as a result of such growth, and how the proposed regulations would affect these projections.

(3) The impact of the current and projected foreign-born populations on the natural environment, including the consumption of nonrenewable resources, waste production and disposal, the emission of pollutants, and the loss of habitat and productive farmland, an estimate of the public expenditures required to maintain current standards in each of these areas, the degree to which current standards will deteriorate if such expenditures are not forthcoming, and the additional effects the proposed regulations would have.

(4) The impact of the current and projected foreign-born populations on employment and wage rates, particularly in industries such as agriculture and services in which the foreign born are concentrated, an estimate of the associated public costs, and the additional effects the proposed regulations would have.

(5) The impact of the current and projected foreign-born populations on the need for additions and improvements to the transportation infrastructure of the United States, an estimate of the public expenditures required to meet this need, the impact on Americans' mobility if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(6) The impact of the current and projected foreign-born populations on enrollment, class size, teacher-student ratios, and the quality of education in public schools, an estimate of the public expenditures required to maintain current median standards, the degree to those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(7) The impact of the current and projected foreign-born populations on home ownership rates, housing prices, and the demand for low-income and subsidized housing, the public expenditures required to maintain current median standards in these areas, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(8) The impact of the current and projected foreign-born populations on access to quality health care and on the cost of health care and health insurance, an estimate of the public expenditures required to maintain current median standards, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(9) The impact of the current and projected foreign-born populations on the criminal justice system in the United States, an estimate of the associated public costs, and the additional effect the proposed regulations would have.

SEC. 402. NONIMMIGRANT TEMPORARY WORKER.

(a) TEMPORARY WORKER CATEGORY.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended to read as follows:

''(H) an alien—

''(i)(b) subject to section 212(j)(2)—

''(aa) who is coming temporarily to the United States to perform services (other than services described in clause (ii)(a) or subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) or as a fashion model;

''(bb) who meets the requirements for the occupation specified in section 214(i)(2) or, in the case of a fashion model, is of distinguished merit and ability; and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that the intending employer has filed an application with the Secretary in accordance with section 212(n)(1);

''(b1)(aa) who is entitled to enter the United States under the provisions of an agreement listed in section 214(g)(8)(A);

''(bb) who is engaged in a specialty occupation described in section 214(i)(3); and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed an attestation with the Secretary of Labor in accordance with section 212(t)(1); or

''(c)(aa) who is coming temporarily to the United States to perform services as a registered nurse;

''(bb) who meets the qualifications described in section 212(m)(1); and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or

''(ii)(a) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning; and

''(bb) is coming temporarily to the United States to perform agricultural labor or services (as defined by the Secretary of Labor), including agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986), agriculture (as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))), and the pressing of apples for cider on a farm, of a temporary or seasonal nature;

''(b) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning;

''(bb) is coming temporarily to the United States to perform nonagricultural work or services of a temporary or seasonal nature (if unemployed persons capable of performing such work or services cannot be found in the United States), excluding medical school graduates coming to the United States to perform services as members of the medical profession; or

''(c) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning;

''(bb) is coming temporarily to the United States to perform temporary labor or services other than the labor or services described in clause (i)(b), (i)(c), (ii)(a), or (iii), or subparagraph (L), (O), (P), or (R) (if unemployed persons capable of performing such labor or services cannot be found in the United States); and

''(cc) meets the requirements of section 218A, including the filing of a petition under such section on behalf of the alien;

''(iii) who—

''(a) has a residence in a foreign country which the alien has no intention of abandoning; and

''(b) is coming temporarily to the United States as a trainee (other than to receive graduate medical education or training) in a training program that is not designed primarily to provide productive employment; or

''(iv) who—

''(a) is the spouse or a minor child of an alien described in clause (iii); and

''(b) is accompanying or following to join such alien.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date which is 1 year after the date of the enactment of this Act and shall apply to aliens, who, on such effective date, are outside of the United States.

SEC. 403. ADMISSION OF NONIMMIGRANT TEMPORARY GUEST WORKERS.

(a) TEMPORARY GUEST WORKERS.—

(1) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

''SEC. 218A. ADMISSION OF H–2C NONIMMIGRANTS.

''(a) AUTHORIZATION.—The Secretary of State may grant a temporary visa to an H–2C nonimmigrant who demonstrates an intent to perform labor or services in the United States (other than the labor or services described in clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15).

''(b) REQUIREMENTS FOR ADMISSION.—An alien shall be eligible for H–2C nonimmigrant status if the alien meets the following requirements:

''(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(H)(ii)(c).

''(2) EVIDENCE OF EMPLOYMENT.—The alien shall establish that the alien has received a job offer from an employer who has complied with the requirements of 218B.

''(3) FEE.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

''(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice.

''(5) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The alien shall submit to the Secretary a completed application, on a form designed by the Secretary of Homeland Security, including proof of evidence of the requirements under paragraphs (1) and (2).

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for H–2C nonimmigrant status, the Secretary shall require an alien to provide information concerning the alien's—

''(i) physical and mental health;

''(ii) criminal history and gang membership;

''(iii) immigration history; and

''(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government.

''(C) KNOWLEDGE.—The alien shall include with the application submitted under this paragraph a signed certification in which the alien certifies that—

''(i) the alien has read and understands all of the questions and statements on the application form;

''(ii) the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct; and

''(iii) the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) GROUNDS OF INADMISSIBILITY.—

''(1) IN GENERAL.—In determining an alien's admissibility as an H–2C nonimmigrant—

''(A) paragraphs (5), (6)(A), (7), (9)(B), and (9)(C) of section 212(a) may be waived for conduct that occurred before the effective date of the Comprehensive Immigration Reform Act of 2006;

''(B) the Secretary of Homeland Security may not waive the application of—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraph (A), (C) or (D) of section 212(a)(10) (relating to polygamists and child abductors); and

''(C) for conduct that occurred before the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien—

''(i) for humanitarian purposes;

''(ii) to ensure family unity; or

''(iii) if such a waiver is otherwise in the public interest.

''(2) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as an H–2C nonimmigrant shall establish that the alien is not inadmissible under section 212(a).

''(d) BACKGROUND CHECKS.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking H–2C nonimmigrant status unless all appropriate background checks have been completed.

''(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An H–2C nonimmigrant may not change nonimmigrant classification under section 248.

''(f) PERIOD OF AUTHORIZED ADMISSION.—

''(1) AUTHORIZED PERIOD AND RENEWAL.—The initial period of authorized admission as an H–2C nonimmigrant shall be 3 years, and the alien may seek 1 extension for an additional 3-year period.

''(2) INTERNATIONAL COMMUTERS.—An alien who resides outside the United States and commutes into the United States to work as an H–2C nonimmigrant, is not subject to the time limitations under paragraph (1).

''(3) LOSS OF EMPLOYMENT.—

''(A) IN GENERAL.—Subject to subsection (c), the period of authorized admission of an H–2C nonimmigrant shall terminate if the alien is unemployed for 60 or more consecutive days.

''(B) RETURN TO FOREIGN RESIDENCE.—Any alien whose period of authorized admission terminates under subparagraph (A) shall be required to leave the United States.

''(C) PERIOD OF VISA VALIDITY.—Any alien, whose period of authorized admission terminates under subparagraph (A), who leaves the United States under subparagraph (B), may reenter the United States as an H–2C nonimmigrant to work for an employer, if the alien has complied with the requirements of subsections (b) and (f)(2). The Secretary may, in the Secretary's sole and unreviewable discretion, reauthorize such alien for admission as an H–2C nonimmigrant without requiring the alien's departure from the United States.

''(4) VISITS OUTSIDE UNITED STATES.—

''(A) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, an H–2C nonimmigrant—

''(i) may travel outside of the United States; and

''(ii) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(B) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (A) shall not extend the period of authorized admission in the United States.

''(5) BARS TO EXTENSION OR ADMISSION.—An alien may not be granted H–2C nonimmigrant status, or an extension of such status, if—

''(A) the alien has violated any material term or condition of such status granted previously, including failure to comply with the change of address reporting requirements under section 265;

''(B) the alien is inadmissible as a nonimmigrant; or

''(C) the granting of such status or extension of such status would allow the alien to exceed 6 years as an H–2C nonimmigrant, unless the alien has resided and been physically present outside the United States for at least 1 year after the expiration of such H–2C nonimmigrant status.

''(g) EVIDENCE OF NONIMMIGRANT STATUS.—Each H–2C nonimmigrant shall be issued documentary evidence of nonimmigrant status, which—

''(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

''(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement;

''(3) shall, during the alien's authorized period of admission under subsection (f), serve as a valid entry document for the purpose of applying for admission to the United States—

''(A) instead of a passport and visa if the alien—

''(i) is a national of a foreign territory contiguous to the United States; and

''(ii) is applying for admission at a land border port of entry; and

''(B) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

''(4) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

''(5) shall be issued to the H–2C nonimmigrant by the Secretary of Homeland Security promptly after the final adjudication of such alien's application for H–2C nonimmigrant status.

''(h) PENALTY FOR FAILURE TO DEPART.—If an H–2C nonimmigrant fails to depart the United States before the date which is 10 days after the date that the alien's authorized period of admission as an H–2C nonimmigrant terminates, the H–2C nonimmigrant may not apply for or receive any immigration relief or benefit under this Act or any other law, except for relief under sections 208 and 241(b)(3) and relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(i) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—Any alien who enters, attempts to enter, or crosses the border after the date of the enactment of this section, and is physically present in the United States after such date in violation of this Act or of any other Federal law, may not receive, for a period of 10 years—

''(1) any relief under sections 240A and 240B; or

''(2) nonimmigrant status under section 101(a)(15).

''(j) PORTABILITY.—A nonimmigrant alien described in this section, who was previously issued a visa or otherwise provided H–2C nonimmigrant status, may accept a new offer of employment with a subsequent employer, if—

''(1) the employer complies with section 218B; and

''(2) the alien, after lawful admission to the United States, did not work without authorization.

''(k) CHANGE OF ADDRESS.—An H–2C nonimmigrant shall comply with the change of address reporting requirements under section 265 through either electronic or paper notification.

''(l) COLLECTION OF FEES.—All fees collected under this section shall be deposited in the Treasury in accordance with section 286(c).

''(m) ISSUANCE OF H–4 NONIMMIGRANT VISAS FOR SPOUSE AND CHILDREN.—

''(1) IN GENERAL.—The alien spouse and children of an H–2C nonimmigrant (referred to in this section as 'dependent aliens') who are accompanying or following to join the H–2C nonimmigrant may be issued nonimmigrant visas under section 101(a)(15)(H)(iv).

''(2) REQUIREMENTS FOR ADMISSION.—A dependent alien is eligible for nonimmigrant status under 101(a)(15)(H)(iv) if the dependant alien meets the following requirements:

''(A) ELIGIBILITY.—The dependent alien is admissible as a nonimmigrant and does not fall within a class of aliens ineligible for H–4A nonimmigrant status listed under subsection (c).

''(B) MEDICAL EXAMINATION.—Before a nonimmigrant visa is issued to a dependent alien under this subsection, the dependent alien may be required to submit to a medical examination (including a determination of immunization status) at the alien's expense, that conforms to generally accepted standards of medical practice.

''(C) BACKGROUND CHECKS.—Before a nonimmigrant visa is issued to a dependent alien under this section, the consular officer shall conduct such background checks as the Secretary of State, in consultation with the Secretary of Homeland Security, considers appropriate.

''(n) DEFINITIONS.—In this section and sections 218B, 218C, and 218D:

''(1) AGGRIEVED PERSON.—The term 'aggrieved person' means a person adversely affected by an alleged violation of this section, including—

''(A) a worker whose job, wages, or working conditions are adversely affected by the violation; and

''(B) a representative for workers whose jobs, wages, or working conditions are adversely affected by the violation who brings a complaint on behalf of such worker.

''(2) AREA OF EMPLOYMENT.—The terms 'area of employment' and 'area of intended employment' mean the area within normal commuting distance of the worksite or physical location at which the work of the temporary worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

''(3) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A) with respect to that employment.

''(4) EMPLOY; EMPLOYEE; EMPLOYER.—The terms 'employ', 'employee', and 'employer' have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

''(5) FOREIGN LABOR CONTRACTOR.—The term 'foreign labor contractor' means any person who for any compensation or other valuable consideration paid or promised to be paid, performs any foreign labor contracting activity.

''(6) FOREIGN LABOR CONTRACTING ACTIVITY.—The term 'foreign labor contracting activity' means recruiting, soliciting, hiring, employing, or furnishing, an individual who resides outside of the United States for employment in the United States as a nonimmigrant alien described in section 101(a)(15)(H)(ii)(c).

''(7) H–2C NONIMMIGRANT.—The term 'H–2C nonimmigrant' means a nonimmigrant described in section 101(a)(15)(H)(ii)(c).

''(8) SEPARATION FROM EMPLOYMENT.—The term 'separation from employment' means the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract. The term does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether the employee accepts the offer. Nothing in this paragraph shall limit an employee's rights under a collective bargaining agreement or other employment contract.

''(9) UNITED STATES WORKER.—The term 'United States worker' means an employee who is—

''(A) a citizen or national of the United States; or

''(B) an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) admitted as a refugee under section 207;

''(iii) granted asylum under section 208; or

''(iv) otherwise authorized, under this Act or by the Secretary of Homeland Security, to be employed in the United States.''.

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

''Sec. 218A. Admission of temporary H–2C workers.''.

(b) CREATION OF STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Aid Account'. Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the account all family supplemental visa and family supplemental extension of status fees collected under sections 218A and 218B.''.

SEC. 404. EMPLOYER OBLIGATIONS.

(a) IN GENERAL.—Title II (8 U.S.C. 1201 et seq.) is amended by inserting after section 218A, as added by section 403, the following:

''SEC. 218B. EMPLOYER OBLIGATIONS.

''(a) GENERAL REQUIREMENTS.—Each employer who employs an H–2C nonimmigrant shall—

''(1) file a petition in accordance with subsection (b); and

''(2) pay the appropriate fee, as determined by the Secretary of Labor.

''(b) PETITION.—A petition to hire an H–2C nonimmigrant under this section shall include an attestation by the employer of the following:

''(1) PROTECTION OF UNITED STATES WORKERS.—The employment of an H–2C nonimmigrant—

''(A) will not adversely affect the wages and working conditions of workers in the United States similarly employed; and

''(B) did not and will not cause the separation from employment of a United States worker employed by the employer within the 180-day period beginning 90 days before the date on which the petition is filed.

''(2) WAGES.—

''(A) IN GENERAL.—The H–2C nonimmigrant will be paid not less than the greater of—

''(i) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; or

''(ii) the prevailing wage level for the occupational classification in the area of employment, taking into account experience and skill levels of employees.

''(B) CALCULATION.—The wage levels under subparagraph (A) shall be calculated based on the best information available at the time of the filing of the application.

''(C) PREVAILING WAGE LEVEL.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance with this subparagraph. If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement. If the job opportunity is not covered by such an agreement, and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

''(3) WORKING CONDITIONS.—All workers in the occupation at the place of employment at which the H–2C nonimmigrant will be employed will be provided the working conditions and benefits that are normal to workers similarly employed in the area of intended employment.

''(4) LABOR DISPUTE.—There is not a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment at which the H–2C nonimmigrant will be employed. If such strike, lockout, or work stoppage occurs following submission of the petition, the employer will provide notification in accordance with regulations promulgated by the Secretary of Labor.

''(5) PROVISION OF INSURANCE.—If the position for which the H–2C nonimmigrant is sought is not covered by the State workers' compensation law, the employer will provide, at no cost to the H–2C nonimmigrant, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(6) NOTICE TO EMPLOYEES.—

''(A) IN GENERAL.—The employer has provided notice of the filing of the petition to the bargaining representative of the employer's employees in the occupational classification and area of employment for which the H–2C nonimmigrant is sought.

''(B) NO BARGAINING REPRESENTATIVE.—If there is no such bargaining representative, the employer has—

''(i) posted a notice of the filing of the petition in a conspicuous location at the place or places of employment for which the H–2C nonimmigrant is sought; or

''(ii) electronically disseminated such a notice to the employer's employees in the occupational classification for which the H–2C nonimmigrant is sought.

''(7) RECRUITMENT.—Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the H–2C nonimmigrant is sought—

''(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition; and

''(B) good faith efforts have been taken to recruit United States workers, in accordance with regulations promulgated by the Secretary of Labor, which efforts included—

''(i) the completion of recruitment during the period beginning on the date that is 90 days before the date on which the petition was filed with the Department of Homeland Security and ending on the date that is 14 days before such filing date; and

''(ii) the actual wage paid by the employer for the occupation in the areas of intended employment was used in conducting recruitment.

''(8) INELIGIBILITY.—The employer is not currently ineligible from using the H–2C nonimmigrant program described in this section.

''(9) BONAFIDE OFFER OF EMPLOYMENT.—The job for which the H–2C nonimmigrant is sought is a bona fide job—

''(A) for which the employer needs labor or services;

''(B) which has been and is clearly open to any United States worker; and

''(C) for which the employer will be able to place the H–2C nonimmigrant on the payroll.

''(10) PUBLIC AVAILABILITY AND RECORDS RETENTION.—A copy of each petition filed under this section and documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor, will—

''(A) be provided to every H–2C nonimmigrant employed under the petition;

''(B) be made available for public examination at the employer's place of business or work site;

''(C) be made available to the Secretary of Labor during any audit; and

''(D) remain available for examination for 5 years after the date on which the petition is filed.

''(11) NOTIFICATION UPON SEPARATION FROM OR TRANSFER OF EMPLOYMENT.—The employer will notify the Secretary of Labor and the Secretary of Homeland Security of an H–2C nonimmigrant's separation from employment or transfer to another employer not more than 3 business days after the date of such separation or transfer, in accordance with regulations promulgated by the Secretary of Homeland Security.

''(12) ACTUAL NEED FOR LABOR OR SERVICES.—The petition was filed not more than 60 days before the date on which the employer needed labor or services for which the H–2C nonimmigrant is sought.

''(c) AUDIT OF ATTESTATIONS.—

''(1) REFERRALS BY SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall refer all approved petitions for H–2C nonimmigrants to the Secretary of Labor for potential audit.

''(2) AUDITS AUTHORIZED.—The Secretary of Labor may audit any approved petition referred pursuant to paragraph (1), in accordance with regulations promulgated by the Secretary of Labor.

''(d) INELIGIBLE EMPLOYERS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall not approve an employer's petitions, applications, certifications, or attestations under any immigrant or nonimmigrant program if the Secretary of

Labor determines, after notice and an opportunity for a hearing, that the employer submitting such documents—

''(A) has, with respect to the attestations required under subsection (b)—

''(i) misrepresented a material fact;

''(ii) made a fraudulent statement; or

''(iii) failed to comply with the terms of such attestations; or

''(B) failed to cooperate in the audit process in accordance with regulations promulgated by the Secretary of Labor.

''(2) LENGTH OF INELIGIBILITY.—An employer described in paragraph (1) shall be ineligible to participate in the labor certification programs of the Secretary of Labor for not less than the time period determined by the Secretary, not to exceed 3 years.

''(3) EMPLOYERS IN HIGH UNEMPLOYMENT AREAS.—Beginning on the date that is 1 year after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may not approve any employer's petition under subsection (b) if the work to be performed by the H–2C nonimmigrant is located in a metropolitan or micropolitan statistical area (as defined by the Office of Management and Budget) in which the unemployment rate for unskilled and low-skilled workers during the most recently completed 6-month period averaged more than 11.0 percent.

''(e) REGULATION OF FOREIGN LABOR CONTRACTORS.—

''(1) COVERAGE.—Notwithstanding any other provision of law, an H–2C nonimmigrant may not be treated as an independent contractor.

''(2) APPLICABILITY OF LAWS.—An H–2C nonimmigrant shall not be denied any right or any remedy under Federal, State, or local labor or employment law that would be applicable to a United States worker employed in a similar position with the employer because of the alien's status as a nonimmigrant worker.

''(3) TAX RESPONSIBILITIES.—With respect to each employed H–2C nonimmigrant, an employer shall comply with all applicable Federal, State, and local tax and revenue laws.

''(f) WHISTLEBLOWER PROTECTION.—It shall be unlawful for an employer or a labor contractor of an H–2C nonimmigrant to intimidate, threaten, restrain, coerce, retaliate, discharge, or in any other manner, discriminate against an employee or former employee because the employee or former employee—

''(1) discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of this Act; or

''(2) cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of this Act.

''(g) LABOR RECRUITERS.—

''(1) IN GENERAL.—Each employer that engages in foreign labor contracting activity and each foreign labor contractor shall ascertain and disclose, to each such worker who is recruited for employment at the time of the worker's recruitment—

''(A) the place of employment;

''(B) the compensation for the employment;

''(C) a description of employment activities;

''(D) the period of employment;

''(E) any other employee benefit to be provided and any costs to be charged for each benefit;

''(F) any travel or transportation expenses to be assessed;

''(G) the existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment;

''(H) the existence of any arrangement with any owner, employer, foreign contractor, or its agent where such person receives a commission from the provision of items or services to workers;

''(I) the extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including—

''(i) work related injuries and death during the period of employment;

''(ii) the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance;

''(iii) the name and the telephone number of each person who must be notified of an injury or death; and

''(iv) the time period within which such notice must be given;

''(J) any education or training to be provided or required, including—

''(i) the nature and cost of such training;

''(ii) the entity that will pay such costs; and

''(iii) whether the training is a condition of employment, continued employment, or future employment; and

''(K) a statement, in a form specified by the Secretary of Labor, describing the protections of this Act for workers recruited abroad.

''(2) FALSE OR MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in foreign labor contracting activity shall knowingly provide material false or misleading information to any worker concerning any matter required to be disclosed in paragraph (1).

''(3) LANGUAGES.—The information required to be disclosed under paragraph (1) shall be provided in writing in English or, as necessary and reasonable, in the language of the worker being recruited. The Secretary of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

''(4) FEES.—A person conducting a foreign labor contracting activity shall not assess any fee to a worker for such foreign labor contracting activity.

''(5) TERMS.—No employer or foreign labor contractor shall, without justification, violate the terms of any agreement made by that contractor or employer regarding employment under this program.

''(6) TRAVEL COSTS.—If the foreign labor contractor or employer charges the employee for transportation such transportation costs shall be reasonable.

''(7) OTHER WORKER PROTECTIONS.—

''(A) NOTIFICATION.—Not less frequently than once every 2 years, each employer shall notify the Secretary of Labor of the identity of any foreign labor contractor engaged by the employer in any foreign labor contractor activity for, or on behalf of, the employer.

''(B) REGISTRATION OF FOREIGN LABOR CONTRACTORS.—

''(i) IN GENERAL.—No person shall engage in foreign labor recruiting activity unless such person has a certificate of registration from the Secretary of Labor specifying the activities that such person is authorized to perform. An employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under this subparagraph.

''(ii) ISSUANCE.—The Secretary shall promulgate regulations to establish an efficient electronic process for the investigation and approval of an application for a certificate of registration of foreign labor contractors not later than 14 days after such application is filed, including—

''(I) requirements under paragraphs (1), (4), and (5) of section 102 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1812);

''(II) an expeditious means to update registrations and renew certificates; and

''(III) any other requirements that the Secretary may prescribe.

''(iii) TERM.—Unless suspended or revoked, a certificate under this subparagraph shall be valid for 2 years.

''(iv) REFUSAL TO ISSUE; REVOCATION; SUSPENSION.—In accordance with regulations promulgated by the Secretary of Labor, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration under this subparagraph if—

''(I) the application or holder of the certification has knowingly made a material misrepresentation in the application for such certificate;

''(II) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

''(aa) is a person who has been refused issuance or renewal of a certificate;

''(bb) has had a certificate suspended or revoked; or

''(cc) does not qualify for a certificate under this paragraph; or

''(III) the applicant for or holder of the certification has failed to comply with this Act.

''(C) REMEDY FOR VIOLATIONS.—An employer engaging in foreign labor contracting activity and a foreign labor contractor that violates the provisions of this subsection shall be subject to remedies for foreign labor contractor violations under subsections (h) and (i). If a foreign labor contractor acting as an agent of an employer violates any provision of this subsection, the employer shall also be subject to remedies under subsections (h) and (i). An employer that violates a provision of this subsection relating to employer obligations shall be subject to remedies under subsections (h) and (i).

''(D) EMPLOYER NOTIFICATION.—An employer shall notify the Secretary of Labor if the employer becomes aware of a violation of this subsection by a foreign labor recruiter.

''(E) WRITTEN AGREEMENTS.—A foreign labor contractor may not violate the terms of any written agreements made with an employer relating to any contracting activity or worker protection under this subsection.

''(F) BONDING REQUIREMENT.—The Secretary of Labor may require a foreign labor contractor to post a bond in an amount sufficient to ensure the protection of individuals recruited by the foreign labor contractor. The Secretary may consider the extent to which the foreign labor contractor has sufficient ties to the United States to adequately enforce this subsection.

''(h) ENFORCEMENT.—

''(1) IN GENERAL.—The Secretary of Labor shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved person respecting a violation of this section.

''(2) FILING DEADLINE.—No investigation or hearing shall be conducted on a complaint concerning a violation under this section unless the complaint was filed not later than 12 months after the date of such violation.

''(3) REASONABLE CAUSE.—The Secretary of Labor shall conduct an investigation under this subsection if there is reasonable cause to believe that a violation of this section has occurred. The process established under this subsection shall provide that, not later than 30 days after a complaint is filed, the Secretary shall determine if there is reasonable cause to find such a violation.

''(4) NOTICE AND HEARING.—

''(A) IN GENERAL.—Not later than 60 days after the Secretary of Labor makes a determination of reasonable cause under paragraph (4), the Secretary shall issue a notice

to the interested parties and offer an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

''(B) COMPLAINT.—If the Secretary of Labor, after receiving a complaint under this subsection, does not offer the aggrieved party or organization an opportunity for a hearing under subparagraph (A), the Secretary shall notify the aggrieved party or organization of such determination and the aggrieved party or organization may seek a hearing on the complaint in accordance with such section 556.

''(C) HEARING DEADLINE.—Not later than 60 days after the date of a hearing under this paragraph, the Secretary of Labor shall make a finding on the matter in accordance with paragraph (5).

''(5) ATTORNEYS' FEES.—A complainant who prevails with respect to a claim under this subsection shall be entitled to an award of reasonable attorneys' fees and costs.

''(6) POWER OF THE SECRETARY.—The Secretary may bring an action in any court of competent jurisdiction—

''(A) to seek remedial action, including injunctive relief;

''(B) to recover the damages described in subsection (i); or

''(C) to ensure compliance with terms and conditions described in subsection (g).

''(7) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary of Labor in any civil litigation brought under this subsection. All such litigation shall be subject to the direction and control of the Attorney General.

''(8) PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.—The rights and remedies provided to workers under this section are in addition to any other contractual or statutory rights and remedies of the workers, and are not intended to alter or affect such rights and remedies.

''(i) PENALTIES.—

''(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary of Labor finds a violation of subsection (b), (e), (f), or (g), the Secretary may impose administrative remedies and penalties, including—

''(A) back wages;

''(B) benefits; and

''(C) civil monetary penalties.

''(2) CIVIL PENALTIES.—The Secretary of Labor may impose, as a civil penalty—

''(A) for a violation of subsection (e) or (f)—

''(i) a fine in an amount not to exceed $2,000 per violation per affected worker;

''(ii) if the violation was willful violation, a fine in an amount not to exceed $5,000 per violation per affected worker;

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not to exceed $25,000 per violation per affected worker; and

''(B) for a violation of subsection (g)—

''(i) a fine in an amount not less than $500 and not more than $4,000 per violation per affected worker;

''(ii) if the violation was willful, a fine in an amount not less than $2,000 and not more than $5,000 per violation per affected worker; and

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not less than $6,000 and not more than $35,000 per violation per affected worker.

''(3) USE OF CIVIL PENALTIES.—All penalties collected under this subsection shall be deposited in the Treasury in accordance with section 286(w).

''(4) CRIMINAL PENALTIES.—If a willful and knowing violation of subsection (g) causes extreme physical or financial harm to an individual, the person in violation of such subsection may be imprisoned for not more than 6 months, fined in an amount not more than $35,000, or both.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218A, as added by section 403, the following:

''Sec. 218B. Employer obligations.''.

SEC. 405. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218B, as added by section 404, the following:

''SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

''(a) ESTABLISHMENT.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commission of Social Security, shall develop and implement a program (referred to in this section as the 'alien employment management system') to manage and track the employment of aliens described in sections 218A and 218D.

''(b) REQUIREMENTS.—The alien employment management system shall—

''(1) provide employers who seek employees with an opportunity to recruit and advertise employment opportunities available to United States workers before hiring an H–2C nonimmigrant;

''(2) collect sufficient information from employers to enable the Secretary of Homeland Security to determine—

''(A) if the nonimmigrant is employed;

''(B) which employers have hired an H–2C nonimmigrant;

''(C) the number of H–2C nonimmigrants that an employer is authorized to hire and is currently employing;

''(D) the occupation, industry, and length of time that an H–2C nonimmigrant has been employed in the United States;

''(3) allow employers to request approval of multiple H–2C nonimmigrant workers; and

''(4) permit employers to submit applications under this section in an electronic form.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218B, as added by section 404, the following:

''Sec. 218C. Alien employment management system.''.

SEC. 406. RULEMAKING; EFFECTIVE DATE.

(a) RULEMAKING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to carry out the provisions of sections 218A, 218B, and 218C, as added by this Act.

(b) EFFECTIVE DATE.—The amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act with regard to aliens, who, on such effective date, are in the foreign country where they maintain residence.

SEC. 407. RECRUITMENT OF UNITED STATES WORKERS.

(a) ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall establish a publicly accessible Web page on the Internet website of the Department of Labor that provides a single Internet link to each State workforce agency's statewide electronic registry of jobs available throughout the United States to United States workers.

(b) RECRUITMENT OF UNITED STATES WORKERS.—

(1) POSTING.—An employer shall attest that the employer has posted an employment opportunity in accordance with section 218B(b)(9) of the Immigration and Nationality Act, as added by this Act.

(2) RECORDS.—An employer shall maintain records for not less than 1 year after the date on which an H–2C nonimmigrant is hired that describe the reasons for not hiring any of the United States workers who may have applied for such position.

(c) OVERSIGHT AND MAINTENANCE OF RECORDS.—The Secretary of Labor shall promulgate regulations regarding the maintenance of electronic job registry records for the purpose of audit or investigation.

(d) ACCESS TO ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall ensure that job opportunities advertised on an electronic job registry established under this section are accessible—

(1) by the State workforce agencies, which may further disseminate job opportunity information to other interested parties; and

(2) through the Internet, for access by workers, employers, labor organizations, and other interested parties.

SEC. 408. TEMPORARY GUEST WORKER VISA PROGRAM TASK FORCE.

(a) ESTABLISHMENT.—There is established a task force to be known as the ''Temporary Worker Task Force'' (referred to in this section as the ''Task Force'').

(b) PURPOSES.—The purposes of the Task Force are—

(1) to study the impact of the admission of aliens under section 101(a)(15)(ii)(c) on the wages, working conditions, and employment of United States workers; and

(2) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(ii)(c).

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) QUORUM.—Six members of the Task Force shall constitute a quorum.

(d) QUALIFICATIONS.—

(1) IN GENERAL.—Members of the Task Force shall be—

(A) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(B) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(2) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(3) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(e) MEETINGS.—

(1) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(2) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(f) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall submit, to Congress, the Secretary of Labor, and the Secretary, a report that contains—

(1) findings with respect to the duties of the Task Force; and

(2) recommendations for imposing a numerical limit.

(g) NUMERICAL LIMITATIONS.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(C) under section 101(a)(15)(H)(ii)(c) may not exceed—

''(i) 400,000 for the first fiscal year in which the program is implemented;

''(ii) in any subsequent fiscal year—

''(I) if the total number of visas allocated for that fiscal year are allotted within the first quarter of that fiscal year, then an additional 20 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 20 percent of the original allocated amount in the prior fiscal year;

''(II) if the total number of visas allocated for that fiscal year are allotted within the second quarter of that fiscal year, then an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

''(III) if the total number of visas allocated for that fiscal year are allotted within the third quarter of that fiscal year, then an additional 10 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year;

''(IV) if the total number of visas allocated for that fiscal year are allotted within the last quarter of that fiscal year, then the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and

''(V) with the exception of the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.''.

(h) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

''(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa—

''(A) by the alien's employer; or

''(B) by the alien, if the alien has maintained such nonimmigrant status in the United States for a cumulative total of 4 years.

''(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

''(A) is physically present in the United States; and

''(B) the alien establishes that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

''(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien's lawful permanent residence.

''(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.''.

SEC. 409. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, in cooperation with the Secretary and the Attorney General, shall negotiate with each home country of aliens described in section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act, as added by section 402, to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement negotiated under subsection (a) shall require the participating home country to—

(1) accept the return of nationals who are ordered removed from the United States within 3 days of such removal;

(2) cooperate with the United States Government to—

(A) identify, track, and reduce gang membership, violence, and human trafficking and smuggling; and

(B) control illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to, or are present in, the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems; and

(4) educate nationals of the home country regarding United States temporary worker programs to ensure that such nationals are not exploited; and

(5) evaluate means to provide housing incentives in the alien's home country for returning workers.

SEC. 410. S VISAS.

(a) EXPANSION OF S VISA CLASSIFICATION.—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i)—

(A) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security'';

(B) in subclause (I), by inserting before the semicolon, ', including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials';

(C) in subclause (III), by inserting ''where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,'' before ''whose''; and

(D) by striking ''or'' at the end; and

(2) in clause (ii)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by striking ''1956,'' and all that follows through ''the alien;'' and inserting the following: ''1956; or

''(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

''(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling, or transferring such weapons or related delivery systems; and

''(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

''and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;''.

(b) NUMERICAL LIMITATION.—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking ''The number of aliens'' and all that follows through the period and inserting the following: ''The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.''.

(c) REPORTS.—

(1) CONTENT.—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking ''The Attorney General'' and inserting ''The Secretary of Homeland Security''; and

(ii) by striking ''concerning—'' and inserting ''that includes—'';

(B) in subparagraph (D), by striking ''and'';

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting at the end the following:

''(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

''(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

''(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

''(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.''.

(2) FORM OF REPORT.—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

''(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4)

may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.''.

SEC. 411. L VISA LIMITATIONS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case'' and inserting ''Except as provided in subparagraph (H), in the case''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

''(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility's existence in the United States and abroad.''.

SEC. 412. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

Subtitle B—Immigration Injunction Reform

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Fairness in Immigration Litigation Act of 2006''.

SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term ''consent decree''—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term ''good cause'' does not include discovery or congestion of the court's calendar.

(3) GOVERNMENT.—The term ''Government'' means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term ''permanent relief'' means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term ''private settlement agreement'' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term ''prospective relief'' means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

SEC. 423. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government's motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

TITLE V—BACKLOG REDUCTION

SEC. 501. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A) 290,000;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

''(2) VISAS FOR SPOUSES AND CHILDREN.—Immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).''.

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 503. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 504. RELIEF FOR MINOR CHILDREN.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154 (a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

''(F)(i) During the period beginning on the date of the enactment the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

''(I) who is otherwise described in section 203(b); and

''(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and

for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

''(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.''.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)''.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting '', except for aliens described in section 201(b),'' after ''any fiscal year''.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the ''Widows and Orphans Act of 2006''.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(N) subject to subsection (j), an immigrant who is not present in the United States—

''(i) who is—

''(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

''(aa) for whom no parent or legal guardian is able to provide adequate care;

''(bb) who faces a credible fear of harm related to his or her age;

''(cc) who lacks adequate protection from such harm; and

''(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

''(ii) who is—

''(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a female who has—

''(aa) a credible fear of harm related to her sex; and

''(bb) a lack of adequate protection from such harm.''.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

''(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

''(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

''(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

''(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

''(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

''(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

''(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).''.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien's arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNTIED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the Untied States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph

(A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon;

(3) in clause (iii), by adding ''and'' at the end; and

(4) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree.''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking ''subparagraph (L) or (V)'' and inserting ''subparagraph (F)(iv), (L), or (V)''.

(c) REQUIREMENTS FOR F-4 VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under section 101(a)(15)(F)(iv) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''.

(d) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(e) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(F)(iv), or would have qualified for such nonimmigrant status if section 101(a)(15)(F)(iv) had been enacted before such alien's graduation;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.''.

(f) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.'';

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

TITLE VI—WORK AUTHORIZATION AND LEGALIZATION OF UNDOCUMENTED INDIVIDUALS

Subtitle A—Conditional Nonimmigrant Workers

SEC. 601. 218D CONDITIONAL NONIMMIGRANTS.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by adding after section 218C, as added by section 405 of this Act, the following:

''SEC. 218D. CONDITIONAL NONIMMIGRANT WORK AUTHORIZATION AND STATUS.

''(a) IN GENERAL.—The Secretary of Homeland Security shall grant conditional nonimmigrant work authorization and status to remain in the United States to an alien if the alien—

''(1) submits an application for such a grant; and

''(2) meets the requirements of this section.

''(b) REQUIREMENTS.—

''(1) PRESENCE; EMPLOYMENT.—The alien establishes that the alien—

''(A) was physically present in the United States before January 7, 2004; and

''(B) was employed in the United States before January 7, 2004, and has been employed in the United States since that date.

''(2) EVIDENCE OF EMPLOYMENT.—

''(A) CONCLUSIVE DOCUMENTS.—An alien may conclusively establish employment status in compliance with paragraph (1) by submitting to the Secretary of Homeland Security records demonstrating such employment maintained by—

''(i) the Social Security Administration, Internal Revenue Service, or by any other Federal, State, or local government agency;

''(ii) an employer; or

''(iii) a labor union, day labor center, or an organization that assists workers in matters related to employment.

''(B) OTHER DOCUMENTS.—An alien who is unable to submit a document described in clauses (i) through (iii) of subparagraph (A) may satisfy the requirement in paragraph (1) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

''(i) bank records;

''(ii) business records;

''(iii) sworn affidavits from nonrelatives who have direct knowledge of the alien's work; or

''(iv) remittance records.

''(3) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in this subsection be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(4) BURDEN OF PROOF.—An alien described in paragraph (1) who is applying for adjustment of status under this section has the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements of this subsection. An alien may meet such burden of proof by producing sufficient evidence to demonstrate such employment as a matter of reasonable inference.

''(c) SPOUSES AND CHILDREN.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall—

''(1) adjust the status to that of a conditional nonimmigrant under this section for, or provide a nonimmigrant visa to, the spouse or child of an alien who is provided nonimmigrant status under this section; or

''(2) adjust the status to that of a conditional nonimmigrant under this section for an alien who, before January 7, 2004, was the spouse or child of an alien who is provided conditional nonimmigrant status under this section, or is eligible for such status, if—

''(A) the termination of the qualifying relationship was connected to domestic violence; and

''(B) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent alien who is provided conditional nonimmigrant status under this section.

''(d) OTHER CRITERIA.—

''(1) IN GENERAL.—An alien may be granted conditional nonimmigrant status under this section or granted status as the spouse or child of an alien eligible for such status under subsection (c), if the alien establishes that the alien—

''(A) is not inadmissible to the United States under section 212(a), except as provided in paragraph (2); and

''(B) has not 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.

''(2) GROUNDS OF INADMISSIBILITY.—In determining an alien's admissibility under paragraph (1)(A)—

''(A) paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7), (9), and (10)(B) of section 212(a) shall not apply;

''(B) the Secretary of Homeland Security may not waive—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraph (A) or (C) of section 212(a)(10) (relating to polygamists and child abductors);

''(C) for conduct that occurred before January 7, 2004, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

''(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security other than under this paragraph to waive the provisions of section 212(a).

''(3) APPLICABILITY OF OTHER PROVISIONS.—Sections 240B(d) and 241(a)(5) shall not apply to an alien who is applying for adjustment of status in accordance with this title for conduct that occurred before the date of enactment of the Comprehensive Immigration Reform Act of 2006.

''(4) SPECIAL RULES FOR MINORS AND INDIVIDUALS WHO ENTERED AS MINORS.—The employment requirements under this section shall not apply to any alien under 21 years of age.

''(5) EDUCATION PERMITTED.—An alien may satisfy the employment requirements under this section, in whole or in part, by full-time attendance at—

''(A) an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); or

''(B) a secondary school (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)).

''(e) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

''(1) SUBMISSION OF FINGERPRINTS.—An alien may not be granted conditional nonimmigrant status under this section, or granted status as the spouse or child of an alien eligible for such status under subsection (c), unless the alien submits fingerprints in accordance with procedures established by the Secretary of Homeland Security.

''(2) BACKGROUND CHECKS.—The Secretary of Homeland Security shall utilize fingerprints and other data provided by the alien to conduct a background check of such alien relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for a grant of conditional nonimmigrant status as described in this section.

''(3) EXPEDITIOUS PROCESSING.—The background checks required under paragraph (2) shall be conducted as expeditiously as possible.

''(f) PERIOD OF AUTHORIZED STAY AND APPLICATION FEE AND FINE.—

''(1) PERIOD OF AUTHORIZED STAY.—

''(A) IN GENERAL.—The period of authorized stay for a conditional nonimmigrant described in this section shall be 6 years.

''(B) LIMITATION.—The Secretary of Homeland Security may not authorize a change from such conditional nonimmigrant classification to any other immigrant or nonimmigrant classification until the termination of the 6-year period described in subparagraph (A). The Secretary may only extend such period to accommodate the processing of an application for adjustment of status under section 245B.

''(2) APPLICATION FEE.—The Secretary of Homeland Security shall impose a fee for filing an application for a grant of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

''(3) FINES.—

''(A) IN GENERAL.—In addition to the fee required under paragraph (2), the Secretary of

Homeland Security may accept an application for a grant of status under this section only if the alien pays a $1,000 fine.

''(B) EXCEPTION.—Fines paid under this paragraph shall not be required from an alien under the age of 21.

''(4) COLLECTION OF FEES AND FINES.—All fees and fines collected under this section shall be deposited in the Treasury in accordance with section 286(w).

''(g) TREATMENT OF APPLICANTS.—

''(1) IN GENERAL.—An alien who files an application under this section, including the alien's spouse or child—

''(A) shall be granted employment authorization pending final adjudication of the alien's application for a grant of status;

''(B) shall be granted permission to travel abroad;

''(C) may not be detained, determined inadmissible or deportable, or removed pending final adjudication of the alien's application for a grant of status, unless the alien, through conduct or criminal conviction, becomes ineligible for such grant of status; and

''(D) may not be considered an unauthorized alien (as defined in section 274A) until employment authorization under subparagraph (A) is denied.

''(2) BEFORE APPLICATION PERIOD.—If an alien is apprehended after the date of the enactment of this section, but before the promulgation of regulations pursuant to this section, and the alien can establish prima facie eligibility as a conditional nonimmigrant under this section, the Secretary of Homeland Security shall provide the alien with a reasonable opportunity, after promulgation of regulations, to file an application for a grant of status.

''(3) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of this Act, an alien who is in removal proceedings shall have an opportunity to apply for a grant of status under this title unless a final administrative determination has been made.

''(4) RELATIONSHIPS OF APPLICATION TO CERTAIN ORDERS.—An alien who is present in the United States and has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of this Act may, notwithstanding such order, apply for a grant of status in accordance with this section. Such an alien shall not be required to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal, or voluntary departure order. If the Secretary of Homeland Security grants the application, the Secretary shall cancel such order. If the Secretary of Homeland Security renders a final administrative decision to deny the application, such order shall be effective and enforceable to the same extent as if the application had not been made.

''(h) ADMINISTRATIVE AND JUDICIAL REVIEW.—

''(1) ADMINISTRATIVE REVIEW.—

''(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary of Homeland Security shall establish an appellate authority within the United States Citizenship and Immigration Services to provide for a single level of administrative appellate review of a determination respecting an application for a grant of status under this section.

''(B) STANDARD FOR REVIEW.—Administrative appellate review referred to in subparagraph (A) shall be based solely upon the administrative record established at the time of the determination on the application and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

''(2) JUDICIAL REVIEW.—

''(A) IN GENERAL.—There shall be judicial review in the Federal courts of appeal of the denial of an application for a grant of status under this section. Notwithstanding any other provision of law, the standard for review of such a denial shall be governed by subparagraph (B).

''(B) STANDARD FOR JUDICIAL REVIEW.—Judicial review of a denial of an application under this section shall be based solely upon the administrative record established at the time of the review. The findings of fact and other determinations contained in the record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record, considered as a whole.

''(C) JURISDICTION OF COURTS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, the district courts of the United States shall have jurisdiction over any cause or claim arising from a pattern or practice of the Secretary of Homeland Security in the operation or implementation of this section that is arbitrary, capricious, or otherwise contrary to law, and may order any appropriate relief.

''(ii) REMEDIES.—A district court may order any appropriate relief under clause (i) if the court determines that resolution of such cause or claim will serve judicial and administrative efficiency or that a remedy would otherwise not be reasonably available or practicable.

''(3) STAY OF REMOVAL.—Aliens seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered establishing ineligibility under this section.

''(i) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may—

''(A) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application;

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

''(C) permit anyone other than the sworn officers and employees of such agency or bureau to examine individual applications.

''(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security shall provide the information furnished pursuant to an application filed under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

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

''(j) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for a grant of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), any alien or other entity (including an employer or union) that submits an employment record that contains incorrect data that the alien used in order to obtain such employment before, shall not, on that ground, be determined to have violated this section.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218C the following:

''Sec. 218D. Conditional nonimmigrant work authorization and status.''.

SEC. 602. ADJUSTMENT OF STATUS FOR SECTION 218D CONDITIONAL NONIMMIGRANTS.

(a) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

''SEC. 245B. ADJUSTMENT OF STATUS OF SECTION 218D CONDITIONAL NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR LAWFUL PERMANENT RESIDENCE.

''(a) REQUIREMENTS.—The Secretary of Homeland Security shall adjust the status of an alien from conditional nonimmigrant status under section 218D to that of an alien lawfully admitted for permanent residence under this section if the alien satisfies the following requirements:

''(1) COMPLETION OF EMPLOYMENT OR EDUCATION REQUIREMENT.—The alien establishes that the alien has been employed in the United States, either full time, part time, seasonally, or self-employed, or has met the education requirements of section 218D(d)(5) during the period required by section 218D(b)(1)(B).

''(2) APPLICATION AND FEE.—The alien who applies for adjustment of status under this section pays the following fees:

''(A) APPLICATION FEE.—An alien who files an application under this section shall pay an application fee, set by the Secretary.

''(B) ADDITIONAL FEE.—Before the adjudication of an application for adjustment of status filed under this section, an alien who is at least 21 years of age shall pay a fee of $1,000.

''(3) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien establishes that the alien is not inadmissible under section 212(a), except for any provision of that section that is not applicable or waived under section 218D(d)(2).

''(4) MEDICAL EXAMINATION.—The alien undergoes, at the alien's expense, an appropriate medical examination (including a determination of immunization status) that conforms to generally accepted professional standards of medical practice.

''(5) PAYMENT OF INCOME TAXES.—

''(A) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of all Federal income taxes owed for employment during the period of employment required by section 218D(b)(1)(B) by establishing that—

''(i) no such tax liability exists;

''(ii) all outstanding liabilities have been met; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

''(B) IRS COOPERATION.—The Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required by this paragraph.

''(6) BASIC CITIZENSHIP SKILLS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the alien establishes that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(B) RELATION TO NATURALIZATION EXAMINATION.—An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(7) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—The Secretary shall conduct a security and law enforcement background check in accordance with procedures described in section 218D(e) with respect to each alien requesting adjusting of status under this section.

''(8) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), that such alien has registered under that Act.

''(b) TREATMENT OF SPOUSES AND CHILDREN.—

''(1) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall—

''(A) adjust the status to that of a lawful permanent resident under this section, or provide an immigrant visa to the spouse or child of an alien who adjusts status to that of a permanent resident under this section; or

''(B) adjust the status to that of a lawful permanent resident under this section for an alien who was the spouse or child of an alien who adjusts status or is eligible to adjust status to that of a permanent resident under section 245B in accordance with subsection (a), if—

''(i) the termination of the qualifying relationship was connected to domestic violence; and

''(ii) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status to that of a permanent resident under this section.

''(2) APPLICATION OF OTHER LAW.—In acting on applications filed under this subsection with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

''(c) RULEMAKING.—The Secretary shall establish regulations for the timely filing and processing of applications for adjustment of status for conditional nonimmigrants under section 218D.

''(d) JUDICIAL REVIEW; CONFIDENTIALITY; PENALTIES.—Subsections (h), (i), and (j) of section 218D shall apply to this section.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 245A the following:

''Sec. 245B. Adjustment of status of section 218D conditional nonimmigrant to that of person admitted for lawful permanent residence.''.

SEC. 603. ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.

Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (A) or (B) of''; and

(2) by adding at the end the following:

''(F) Aliens whose status is adjusted from the status described in section 218D.''.

SEC. 604. EMPLOYER PROTECTIONS.

(a) IMMIGRATION STATUS OF ALIEN.—Employers of aliens applying for adjustment of status under section 245B of the Immigration and Nationality Act, as added by this title, or a grant of status under section 218D of such Act, as added by this title, shall not be subject to civil and criminal tax liability relating directly to the employment of such alien prior to such alien receiving employment authorization under this title.

(b) PROVISION OF EMPLOYMENT RECORDS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for adjustment of status under section 245B of the Immigration and Nationality Act or a grant of status under 218D of such Act or any other application or petition pursuant to any other immigration law, shall not be subject to civil and criminal liability under section 274A of such Act for employing such unauthorized aliens.

(c) APPLICABILITY OF OTHER LAW.—Nothing in this section may be used to shield an employer from liability under section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) or any other labor or employment law.

SEC. 605. LIMITATION ON ADJUSTMENT OF STATUS FOR ALIENS GRANTED CONDITIONAL NONIMMIGRANT WORK AUTHORIZATION.

(a) REQUIREMENT TO PROCESS PENDING APPLICATIONS FOR PERMANENT RESIDENCE.—The Secretary may not adjust the status of an alien granted conditional nonimmigrant work authorization under section 218D of the Immigration and Nationality Act, as added by this title, to that of lawful permanent resident under section 245B of such Act, as added by this title, until the Secretary determines that the priority dates have become current for the class of aliens whose family-based or employment-based petitions for permanent residence were pending on the date of the enactment of this Act.

(b) REQUIREMENT TO ELIMINATE VISA BACKLOG.—If the backlog of applications for family-based and employment-based immigrant visas is not eliminated within 6 years following the date of the enactment of this Act, as predicted under the formulas set out in title V and the amendments made by such title, the Secretary shall hold in abeyance an application submitted by an alien granted conditional nonimmigrant work authorization under section 218D of the Immigration and Nationality Act, for adjustment of status to that of a lawful permanent resident under section 245B of such Act, until the priority dates for the petitions and applications for family-based and employment-based visas pending on the date of the enactment of this Act become current.

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant subsection (a) shall remain available until expended.

(c) SENSE OF CONGRESS.—It is the sense of Congress that funds authorized to be appropriated under subsection (a) should be directly appropriated so as to facilitate the orderly and timely commencement of the processing of applications filed under sections 218D and 245B of the Immigration and Nationality Act, as added by this Act.

Subtitle B—Agricultural Job Opportunities, Benefits, and Security

SEC. 611. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2006'' or the ''AgJOBS Act of 2006''.

SEC. 612. DEFINITIONS.

In this subtitle:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 613(a).

(3) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(4) JOB OPPORTUNITY.—The term ''job opportunity'' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(5) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of ''man-day'' under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SEC. 613. AGRICULTURAL WORKERS.

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days, whichever is less, during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence

abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an ''employment authorized'' endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this subtitle that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to $100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers blue card status upon that alien.

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least—

(I) 5 years of agricultural employment in the United States, for at least 100 work days or 575 hours, but in no case less than 575 hours per year, during the 5-year period beginning on the date of the enactment of this Act; or

(II) 3 years of agricultural employment in the United States, for at least 150 work days or 863 hours, but in no case less than 863 hours per year, during the 5-year period beginning on the date of the enactment of this Act.

(ii) PROOF.—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (a)(5); or

(II) such documentation as may be submitted under subsection (d)(3).

(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under clause (i)(I), the Secretary may credit the alien with not more than 12 additional months to meet the requirement under clause (i) if the alien was unable to work in agricultural employment due to—

(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) FINE.—The alien pays a fine to the Secretary in an amount equal to $400.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) PAYMENT OF INCOME TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of all Federal income taxes owed for employment during the period of employment required under paragraph (1)(A) by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been met; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) IRS COOPERATION.—The Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required under this paragraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—

(i) REMOVAL.—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) TRAVEL.—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) EMPLOYMENT.—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this subtitle as ''qualified designated entities''.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department, or a bureau or agency of the Department, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department, or a bureau or agency of the Department, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

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

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes

or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $40,000,000 for each of fiscal years 2007 through 2010.

SEC. 614. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2006,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

CHAPTER 2—REFORM OF H–2A WORKER PROGRAM

SEC. 615. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended—

(1) by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect

to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218E to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(E) REQUIREMENTS FOR PLACEMENT OF NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218E through 218G.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''; and

(2) by inserting after section 218D, as added by section 601 of this Act, the following:

''SEC. 218E. H–2A EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied

for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2006 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an

arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218F shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218F. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218E, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of an eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)((3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary of Homeland Security shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218G. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a

United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218E(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218E(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218E.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218E(b)(1).

''(2) The reimbursement of transportation as required under section 218E(b)(2).

''(3) The payment of wages required under section 218E(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218E(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218E(b)(4).

''(6) The motor vehicle safety requirements under section 218E(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-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 the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218E or any rule or regulation pertaining to section 218 or 218E, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218E or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a

private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218E, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218H. DEFINITIONS.

''For purposes of this section, section 218, and sections 218E through 218G:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H-2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H-2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218E(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.) is amended—

(1) by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.''; and

(2) by inserting after the item relating to section 218D, as added by section 601 of this Act, the following:

''Sec. 218E. H–2A employment requirements.

''Sec. 218F. Procedure for admission and extension of stay of H–2A workers.

''Sec. 218G. Worker protections and labor standards enforcement.

''Sec. 218H. Definitions.''.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 616. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this subtitle and the amendments made by this subtitle, and a collection process for such fees from employers participating in the program provided under this subtitle. Such fees shall be the only fees chargeable to employers for services provided under this subtitle.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as added by section 615 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this subtitle, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218F of the Immigration and Nationality Act, as added by section 615 of this Act, and the provisions of this subtitle.

SEC. 617. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this subtitle and the amendments made by this subtitle.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this subtitle and the amendments made by this subtitle.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this subtitle and the amendments made by this subtitle.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218E, 218F, and 218G of the Immigration and Nationality Act, as added by section 615 of this Act, shall take effect on the effective date of section 615 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 618. REPORT TO CONGRESS.

Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218F(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218F(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 613(a);

(5) the number of such aliens whose status was adjusted under section 613(a);

(6) the number of aliens who applied for permanent residence pursuant to section 613(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 613(c).

SEC. 619. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 615 and 616 shall take effect 1 year after the date of the enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the measures being taken and the progress made in implementing this subtitle.

Subtitle C—DREAM Act

SEC. 621. SHORT TITLE.

This subtitle may be cited as the ''Development, Relief, and Education for Alien Minors Act of 2006'' or the ''DREAM Act of 2006''.

SEC. 622. DEFINITIONS.

In this subtitle:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 623. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 624. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this subtitle, the Secretary may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 625, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(B), (6)(C), (6)(E), (6)(F), or (6)(G) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or, if inadmissible solely under subparagraph (C) or (F) of paragraph (6) of such subsection, the alien was under the age of 16 years at the time the violation was committed; and

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D), (4), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)), or, if deportable solely under subparagraphs (C) or (D) of paragraph (3) of such subsection, the alien was under the age of 16 years at the time the violation was committed;

(D) the alien, at the time of application, has been admitted to an institution of higher education in the United States, or has earned a high school diploma or obtained a general education development certificate in the United States; and

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has remained in the United States under color of law or received the order before attaining the age of 16 years.

(2) WAIVER.—The Secretary may waive the grounds of ineligibility under section 212(a)(6) of the Immigration and Nationality Act and the grounds of deportability under paragraphs (1), (3), and (6) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN.—The Secretary may not remove any alien who has a pending application for conditional status under this subtitle.

SEC. 625. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 626, an alien whose status has been adjusted under section 624 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this subtitle with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary shall terminate the conditional permanent resident status of any alien who obtained such status under this subtitle, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 624(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the uniformed services.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this subtitle.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which provides, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (2)(A).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION.—

(A) IN GENERAL.—If a petition is filed in accordance with paragraph (1) for an alien, the Secretary shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION.—An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary in accordance with this subtitle. The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION.—

(1) CONTENTS OF PETITION.—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien is in compliance with section 624(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States 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.

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of all of the secondary educational institutions that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, remove the conditional status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary may extend the period of the conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

SEC. 626. RETROACTIVE BENEFITS.

If, on the date of enactment of this Act, an alien has satisfied all the requirements of subparagraphs (A) through (E) of section 624(a)(1) and section 625(d)(1)(D), the Secretary may adjust the status of the alien to that of a conditional resident in accordance with section 624. The alien may petition for removal of such condition at the end of the conditional residence period in accordance with section 625(c) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 625(d)(1) during the entire period of conditional residence.

SEC. 627. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary shall have exclusive jurisdiction to determine eligibility for relief under this subtitle, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this subtitle, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this subtitle.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 624(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States, consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.), and State and local laws governing minimum age for employment.

(d) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 628. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this subtitle and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 629. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—No officer or employee of the United States may—

(1) use the information furnished by the applicant pursuant to an application filed under this subtitle to initiate removal proceedings against any persons identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this subtitle can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of applications filed under this subtitle with a designated entity, that designated entity, to examine applications filed under this subtitle.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 630. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this subtitle shall provide that applications under this subtitle will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 631. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this subtitle shall be eligible only for the following assistance under such title IV:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 632. GAO REPORT.

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, which sets forth—

(1) the number of aliens who were eligible for cancellation of removal and adjustment of status under section 624(a);

(2) the number of aliens who applied for adjustment of status under section 624(a);

(3) the number of aliens who were granted adjustment of status under section 624(a); and

(4) the number of aliens whose conditional permanent resident status was removed under section 625.

Subtitle D—Grant Programs to Assist Nonimmigrant Workers

SEC. 641. GRANTS TO SUPPORT PUBLIC EDUCATION AND COMMUNITY TRAINING.

(a) GRANTS AUTHORIZED.—The Assistant Attorney General, Office of Justice Programs, may award grants to qualified nonprofit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding the provisions of this Act and the amendments made by this Act.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded under this section shall be used—

(A) for public education, training, technical assistance, government liaison, and all

related costs (including personnel and equipment) incurred by the grantee in providing services related to this Act; and

(B) to educate, train, and support nonprofit organizations, immigrant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation.

(2) EDUCATION.—In addition to the purposes described in paragraph (1), grants awarded under this section shall be used to—

(A) educate immigrant communities and other interested entities regarding—

(i) the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary; and

(ii) the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(B) educate interested entities regarding the requirements for obtaining nonprofit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary;

(C) provide nonprofit agencies with training and technical assistance on the recognition and accreditation process; and

(D) educate nonprofit community organizations, immigrant communities, and other interested entities regarding—

(i) the process for obtaining benefits under this Act or under an amendment made by this Act; and

(ii) the availability of authorized legal representation for low-income persons who may qualify for benefits under this Act or under an amendment made by this Act.

(c) DIVERSITY.—The Assistant Attorney General shall ensure, to the extent possible, that the nonprofit community organizations receiving grants under this section serve geographically diverse locations and ethnically diverse populations who may qualify for benefits under the Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Justice Programs of the Department of Justice such sums as may be necessary for each of the fiscal years 2007 through 2009 to carry out this section.

SEC. 642. FUNDING FOR THE OFFICE OF CITIZENSHIP.

(a) AUTHORIZATION.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, is authorized to establish the United States Citizenship and Immigration Foundation (referred to in this subtitle as the ''Foundation'').

(b) PURPOSE.—The Foundation shall be incorporated in the District of Columbia, exclusively for charitable and educational purposes to support the functions of the Office of Citizenship of the Bureau of Citizenship and Immigration Services.

(c) GIFTS.—

(1) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(2) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the mission of the Office of Citizenship.

SEC. 643. CIVICS INTEGRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a competitive grant program to provide financial assistance to nonprofit organizations, including faith-based organizations, to support—

(1) efforts by entities certified by the Office of Citizenship to provide civics and English as a second language courses; and

(2) other activities approved by the Secretary to promote civics and English as a second language.

(b) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the Foundation for grants under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SA 3193. Mr. ALEXANDER (for himself, Mr. CORNYN, Mr. ISAKSON, Mr. COCHRAN, Mr. SANTORUM, Mr. FRIST, Mr. MCCONNELL, and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the appropriate place, insert the following:

SECTION 644. STRENGTHENING AMERICAN CITIZENSHIP.

(a) SHORT TITLE.—This section may be cited as the ''Strengthening American Citizenship Act of 2006''.

(b) DEFINITION.—In this section, the term ''Oath of Allegiance'' means the binding oath (or affirmation) of allegiance required to be naturalized as a citizen of the United States, as prescribed in section 337(e) of the Immigration and Nationality Act, as added by subsection (h)(1)(B).

(c) ENGLISH FLUENCY.—

(1) EDUCATION GRANTS.—

(A) ESTABLISHMENT.—The Chief of the Office of Citizenship of the Department (referred to in this paragraph as the ''Chief'') shall establish a grant program to provide grants in an amount not to exceed $500 to assist legal residents of the United States who declare an intent to apply for citizenship in the United States to meet the requirements under section 312 of the Immigration and Nationality Act (8 U.S.C. 1423).

(B) USE OF FUNDS.—Grant funds awarded under this paragraph shall be paid directly to an accredited institution of higher education or other qualified educational institution (as determined by the Chief) for tuition, fees, books, and other educational resources required by a course on the English language in which the legal resident is enrolled.

(C) APPLICATION.—A legal resident desiring a grant under this paragraph shall submit an application to the Chief at such time, in such manner, and accompanied by such information as the Chief may reasonably require.

(D) PRIORITY.—If insufficient funds are available to award grants to all qualified applicants, the Chief shall give priority based on the financial need of the applicants.

(E) NOTICE.—The Secretary, upon relevant registration of a legal resident with the Department, shall notify such legal resident of the availability of grants under this paragraph for legal residents who declare an intent to apply for United States citizenship.

(2) FASTER CITIZENSHIP FOR ENGLISH FLUENCY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) A legal resident of the United States who demonstrates English fluency, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State, will satisfy the residency requirement under subsection (a) upon the completion of 4 years of continuous legal residency in the United States.''.

(3) SAVINGS PROVISION.—Nothing in this subsection shall be construed to—

(A) modify the English language requirements for naturalization under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)); or

(B) influence the naturalization test redesign process of the Office of Citizenship (except for the requirement under subsection (h)(2)).

(d) AMERICAN CITIZENSHIP GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a competitive grant program to provide financial assistance for—

(A) efforts by entities (including veterans and patriotic organizations) certified by the Office of Citizenship to promote the patriotic integration of prospective citizens into the American way of life by providing civics, history, and English as a second language courses, with a specific emphasis on attachment to principles of the Constitution of the United States, the heroes of American history (including military heroes), and the meaning of the Oath of Allegiance; and

(B) other activities approved by the Secretary to promote the patriotic integration of prospective citizens and the implementation of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including grants—

(i) to promote an understanding of the form of government and history of the United States; and

(ii) to promote an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States.

(2) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the United States Citizenship Foundation, if the foundation is established under subsection (e), for grants under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(e) FUNDING FOR THE OFFICE OF CITIZENSHIP.—

(1) AUTHORIZATION.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, is authorized to establish the United States Citizenship Foundation (referred to in this subsection as the ''Foundation''), an organization duly incorporated in the District of Columbia, exclusively for charitable and educational purposes to support the functions of the Office of Citizenship.

(2) DEDICATED FUNDING.—

(A) IN GENERAL.—Not less than 1.5 percent of the funds made available to the Bureau of Citizenship and Immigration Services (including fees and appropriated funds) shall be dedicated to the functions of the Office of Citizenship, which shall include the patriotic integration of prospective citizens into—

(i) American common values and traditions, including an understanding of American history and the principles of the Constitution of the United States; and

(ii) civic traditions of the United States, including the Pledge of Allegiance, respect for the flag of the United States, and voting in public elections.

(B) SENSE OF CONGRESS.—It is the sense of Congress that dedicating increased funds to the Office of Citizenship should not result in an increase in fees charged by the Bureau of Citizenship and Immigration Services.

(3) GIFTS.—

(A) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(B) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such

sums as may be necessary to carry out the mission of the Office of Citizenship, including the functions described in paragraph (2)(A).

(f) RESTRICTION ON USE OF FUNDS.—No funds appropriated to carry out a program under this subsection (d) or (e) may be used to organize individuals for the purpose of political activism or advocacy.

(g) REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Chief of the Office of Citizenship shall submit an annual report to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on the Judiciary of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a list of the entities that have received funds from the Office of Citizenship during the reporting period under this section and the amount of funding received by each such entity;

(B) an evaluation of the extent to which grants received under this section successfully promoted an understanding of—

(i) the English language; and

(ii) American history and government, including the heroes of American history, the meaning of the Oath of Allegiance, and an attachment to the principles of the Constitution of the United States; and

(C) information about the number of legal residents who were able to achieve the knowledge described under paragraph (2) as a result of the grants provided under this section.

(h) OATH OR AFFIRMATION OF RENUNCIATION AND ALLEGIANCE.—

(1) REVISION OF OATH.—Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a), by striking ''under section 310(b) an oath'' and all that follows through ''personal moral code.'' and inserting ''under section 310(b), the oath (or affirmation) of allegiance prescribed in subsection (e).''; and

(B) by adding at the end the following:

''(e)(1) Subject to paragraphs (2) and (3), the oath (or affirmation) of allegiance prescribed in this subsection is as follows: 'I take this oath solemnly, freely, and without any mental reservation. I absolutely and entirely renounce all allegiance to any foreign state or power of which I have been a subject or citizen. My fidelity and allegiance from this day forward are to the United States of America. I will bear true faith and allegiance to the Constitution and laws of the United States, and will support and defend them against all enemies, foreign and domestic. I will bear arms, or perform noncombatant military or civilian service, on behalf of the United States when required by law. This I do solemnly swear, so help me God.'.

''(2) If a person, by reason of religious training and belief (or individual interpretation thereof) or for other reasons of good conscience, cannot take the oath prescribed in paragraph (1)—

''(A) with the term 'oath' included, the term 'affirmation' shall be substituted for the term 'oath'; and

''(B) with the phrase 'so help me God' included, the phrase 'so help me God' shall be omitted.

''(3) If a person shows by clear and convincing evidence to the satisfaction of the Attorney General that such person, by reason of religious training and belief, cannot take the oath prescribed in paragraph (1)—

''(A) because such person is opposed to the bearing of arms in the Armed Forces of the United States, the words 'bear arms, or' shall be omitted; and

''(B) because such person is opposed to any type of service in the Armed Forces of the United States, the words 'bear arms, or' and 'noncombatant military or' shall be omitted.

''(4) As used in this subsection, the term 'religious training and belief'—

''(A) means a belief of an individual in relation to a Supreme Being involving duties superior to those arising from any human relation; and

''(B) does not include essentially political, sociological, or philosophical views or a merely personal moral code.

''(5) Any reference in this title to 'oath' or 'oath of allegiance' under this section shall be deemed to refer to the oath (or affirmation) of allegiance prescribed under this subsection.''.

(2) HISTORY AND GOVERNMENT TEST.—The Secretary shall incorporate a knowledge and understanding of the meaning of the Oath of Allegiance into the history and government test given to applicants for citizenship.

(3) NOTICE TO FOREIGN EMBASSIES.—Upon the naturalization of a new citizen, the Secretary, in cooperation with the Secretary of State, shall notify the embassy of the country of which the new citizen was a citizen or subject that such citizen has—

(A) renounced allegiance to that foreign country; and

(B) sworn allegiance to the United States.

(4) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 6 months after the date of enactment of this Act.

(i) ESTABLISHMENT OF NEW CITIZENS AWARD PROGRAM.—

(1) ESTABLISHMENT.—There is established a new citizens award program to recognize citizens who—

(A) have made an outstanding contribution to the United States; and

(B) were naturalized during the 10-year period ending on the date of such recognition.

(2) PRESENTATION AUTHORIZED.—

(A) IN GENERAL.—The President is authorized to present a medal, in recognition of outstanding contributions to the United States, to citizens described in paragraph (1).

(B) MAXIMUM NUMBER OF AWARDS.—Not more than 10 citizens may receive a medal under this subsection in any calendar year.

(3) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike a medal with suitable emblems, devices, and inscriptions, to be determined by the President.

(4) NATIONAL MEDALS.—The medals struck pursuant to this subsection are national medals for purposes of chapter 51 of title 31, United States Code.

(j) NATURALIZATION CEREMONIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the National Park Service, the Archivist of the United States, and other appropriate Federal officials, shall develop and implement a strategy to enhance the public awareness of naturalization ceremonies.

(2) VENUES.—In developing the strategy under this subsection, the Secretary shall consider the use of outstanding and historic locations as venues for select naturalization ceremonies.

(3) REPORTING REQUIREMENT.—The Secretary shall submit an annual report to Congress that includes—

(A) the content of the strategy developed under this subsection; and

(B) the progress made towards the implementation of such strategy.

SA 3194. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE ____—CITIZENSHIP ASSISTANCE FOR MEMBERS OF THE ARMED SERVICES

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Kendell Frederick Citizenship Assistance Act''.

SEC. ___02. WAIVER OF REQUIREMENT FOR FINGERPRINTS FOR MEMBERS OF THE ARMED FORCES.

Notwithstanding any other provision of law or any regulation, the Secretary shall use the fingerprints provided by an individual at the time the individual enlists in the Armed Forces to satisfy any requirement for fingerprints as part of an application for naturalization if the individual—

(1) may be naturalized pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440);

(2) was fingerprinted in accordance with the requirements of the Department of Defense at the time the individual enlisted in the Armed Forces; and

(3) submits an application for naturalization not later than 12 months after the date the individual enlisted in the Armed Forces.

SEC. ___03. PROVISION OF INFORMATION ON NATURALIZATION TO MEMBERS OF THE ARMED FORCES.

(a) CITIZENSHIP ADVOCATE.—The Secretary of Defense shall establish the position of Citizenship Advocate at each Military Entry Processing Station to provide information and assistance related to the naturalization process to members of the Armed Forces. An individual serving as a Citizenship Advocate may be a civilian.

(b) WRITTEN MATERIALS.—The Secretary of Defense shall ensure that written information describing the naturalization process for members of the Armed Forces is provided to each individual who is not a citizen of the United States at the time that the individual enlists in the Armed Forces.

(c) TELEPHONE HOT LINE.—The Secretary shall—

(1) establish a dedicated toll free telephone service available only to members of the Armed Forces and the families of such members to provide information related to naturalization pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440), including the status of an application for such naturalization;

(2) ensure that the telephone service required by paragraph (1) is operated by employees of the Department who—

(A) have received specialized training on the naturalization process for members of the Armed Forces and the families of such members; and

(B) are physically located in the same unit as the military processing unit that adjudicates applications for naturalization pursuant to such section 328 or 329; and

(3) implement a quality control program to monitor, on a regular basis, the accuracy and quality of information provided by the employees who operate the telephone service required by paragraph (1), including the breadth of the knowledge related to the naturalization process of such employees.

SEC. ___04. PROVISION OF INFORMATION ON NATURALIZATION TO THE PUBLIC.

Not later than 30 days after the date that a modification to any law or regulation related to the naturalization process becomes

effective, the Secretary shall update the appropriate application form for naturalization, the instructions and guidebook for obtaining naturalization, and the Internet website maintained by the Secretary to reflect such modification.

SEC. ___05. REPORTS.

(a) ADJUDICATION PROCESS.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the entire process for the adjudication of an application for naturalization filed pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440), including the process that begins at the time the application is mailed to, or received by, the Secretary, regardless of whether the Secretary determines that such application is complete, through the final disposition of such application. Such report shall include shall include a description of—

(1) the methods of the Secretary and the Secretary of Defense to prepare, handle, and adjudicate such applications;

(2) the effectiveness of the chain of authority, supervision, and training of employees of the Government or of other entities, including contract employees, who have any role in the such process or adjudication; and

(3) the ability of the Secretary and the Secretary of Defense to use technology to facilitate or accomplish any aspect of such process or adjudication.

(b) IMPLEMENTATION.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation of this title by the Secretary and the Secretary of Defense, including studying any technology that may be used to improve the efficiency of the naturalization process for members of the Armed Forces.

(2) REPORT.—Not later than 180 days after the date that the Comptroller General submits the report required by subsection (a), the Comptroller General shall submit to the appropriate congressional committees a report on the study required by paragraph (1). The report shall include any recommendations of the Comptroller General for improving the implementation of this title by the Secretary or the Secretary of Defense.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Armed Services and the Committee on the Judiciary of the Senate; and

(2) the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives.

SA 3195. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 4 through 7 and insert the following:

(b) UNMANNED AERIAL VEHICLES AND ASSOCIATED INFRASTRUCTURE.—The Secretary shall acquire and maintain MQ–9 unmanned aerial vehicles for use on the border, including related equipment such as—

(1) additional sensors;

(2) critical spares;

(3) satellite command and control; and

(4) other necessary equipment for operational support.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) BORDER CONTROL FACILITIES.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(2) UNMANNED AERIAL VEHICLES.—

(A) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out subsection (b)—

(i) $178,400,000 for fiscal year 2007; and

(ii) $276,000,000 for fiscal year 2008.

(B) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

SA 3196. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER SECURITY CERTIFICATION.

Notwithstanding any other provision of law, beginning on the date of the enactment of this Act, the Secretary may not implement a new H–2C guest worker program, a new conditional nonimmigrant work authorization program, or any similar or subsequent program authorizing the employment of alien workers until the Secretary provides written certification to the President and the Congress that the borders of the United States are reasonably sealed and secured.

SA 3197. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 13, between lines 20 and 21, insert the following:

SEC. 107. STATE AND LOCAL GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary shall award competitive grants to eligible State, local, and tribal law enforcement agencies to provide financial assistance for costs related to border security activities, including efforts to combat criminal activity within the jurisdiction of such agencies.

(b) USE OF FUNDS.—Grants awarded under this section shall be used to provide additional resources for law enforcement agencies to combat criminal activity occurring near the border, including—

(1) law enforcement technologies;

(2) equipment, such as police-type vehicles, all-terrain vehicles, firearms, sensors, cameras, and lighting, and maintenance for such equipment;

(3) computer equipment; and

(4) such other resources that may be available to assist the law enforcement agency with border security.

(c) APPLICATION.—A law enforcement agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(d) SELECTION CRITERIA.—In selecting grant recipients under this section, the Secretary shall give priority to applicants providing law enforcement for jurisdictions that—

(1) are close to the border;

(2) have small populations;

(3) have more felony criminal cases filed per United States district court judge;

(4) are located in States with more undocumented aliens, based on the most recent decennial census; or

(5) are located in States with more undocumented alien apprehensions in the most recent fiscal year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SA 3198. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 7, between lines 12 and 13, insert the following:

(3) EMPLOYMENT OF RETIRED LAW ENFORCEMENT OFFICERS.—

(A) STUDY.—The Secretary shall conduct a study of the feasibility of hiring, on a part-time basis, retired Federal law enforcement officers to supplement the capabilities of the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement.

(B) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report, in classified form, if necessary, to the appropriate congressional committees. The report shall include—

(i) the results of the study conducted under subparagraph (A); and

(ii) a plan to implement a program that employs retired Federal law enforcement officers for border security, if the Secretary determines that such plan is feasible.

(C) IMPLEMENTATION.—If the Secretary determines that the plan described in subparagraph (B)(ii) is feasible, the Secretary shall implement the plan not later than 90 days after the submission of the report to Congress under subparagraph (B).

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this paragraph.

SA 3199. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 13, strike ''(b)'' and insert the following:

(b) RECRUITMENT AND RETENTION PROGRAM.—

(1) IMPLEMENTATION.—The Secretary shall conduct a 5-year program to facilitate the recruitment and retention of agents within the Bureau of Customs and Border Protection and the Bureau of Immigration and Customs Enforcement.

(2) REPORT.—Not less frequently than once every 90 days during the 5-year period of the program authorized under paragraph (1), the Secretary shall submit a report on the results and progress of the program, in classified form, if necessary, to the appropriate congressional committees.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subsection.

(c)

SA 3200. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 4 through 7 and insert the following:

(b) FEDERAL LAW ENFORCEMENT TRAINING CENTER INFRASTRUCTURE IMPROVEMENTS.—The Secretary shall make necessary improvements to the following law enforcement training facilities:

(1) The Federal Law Enforcement Training Center in Glynco, Georgia.

(2) The residential training sites located in Artesia, New Mexico and Charleston, South Carolina.

(3) The inservice requalification training facility located in Cheltenham, Maryland.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SA 3201. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 4 through 7 and insert the following:

(b) DETENTION FACILITIES.—

(1) CONSTRUCTION.—The Attorney General shall plan, construct, maintain, and acquire additional detention facilities for the purpose of immigration detention and removal.

(2) USE OF CLOSED OR UNUSED MILITARY INSTALLATIONS.—The Secretary, in consultation with the Secretary of Defense, shall conduct a study of the feasibility of using military installations designated for closure or realignment as possible immigration detention facilities.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SA 3202. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL, to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 11, strike lines 13 through 20 and insert the following:

SEC. 105. PORTS OF ENTRY.

(a) CONSTRUCTION; IMPROVEMENTS.—The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

(b) INFRASTRUCTURE REPORT.—The Administrator of General Services shall submit an annual report to Congress that—

(1) describes the status of the infrastructure at ports of entry into the United States; and

(2) identifies projects to improve security at such ports of entry.

(c) VULNERABILITY REPORT.—Not less frequently than once every 6 months, the Secretary shall submit a report, in classified form if necessary, to the appropriate congressional committees on vulnerabilities at ports of entry into the United States.

(d) DEMONSTRATION PROGRAMS.—The Secretary shall establish demonstration programs to evaluate and assess border security and port of entry technologies.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SA 3203. Mr. ISAKSON submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE IMMIGRATION EFFICIENCY REVIEW.

(a) REVIEW.—The Secretary, in consultation with the Secretary of State, shall conduct a comprehensive review of the immigration procedures in existence as of the date of the enactment of this Act.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report, in classified form, if necessary, that—

(1) identifies inefficient immigration procedures; and

(2) outlines a plan to improve the efficiency and responsiveness of the immigration process.

SA 3204. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL LANGUAGE ACT OF 2006.

(a) SHORT TITLE.—This section may be cited as the ''National Language Act of 2006''.

(b) ENGLISH AS OFFICIAL LANGUAGE.—

(1) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following new chapter:

''CHAPTER 6—LANGUAGE OF THE GOVERNMENT

''§ 161. Declaration of official language

''English shall be the official language of the Government of the United States.

''§ 162. Official government activities in English

''The Government of the United States shall conduct its official business in English, including publications, income tax forms, and informational materials.

''§ 163. Preserving and enhancing the role of the official language

''The Government of the United States shall preserve and enhance the role of English as the official language of the United States of America. Unless specifically stated in applicable law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.

SA 3205. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

On page 54, after line 23, add the following:

Subtitle E—National Border Neighborhood Watch Program

SEC. 151. NATIONAL BORDER NEIGHBORHOOD WATCH PROGRAM.

The Commissioner of the United States Customs and Border Protection (referred to in this subtitle as the ''USCBP'') shall establish a National Border Neighborhood Watch Program (referred to in this subtitle as the ''NBNW Program'') to permit retired law enforcement officers and civilian volunteers to combat illegal immigration into the United States.

SEC. 152. BRAVE FORCE.

(a) ESTABLISHMENT.—There is established in the USCBP a Border Regiment Assisting in Valuable Enforcement Force (referred to in this subtitle as ''BRAVE Force''), which shall consist of retired law enforcement officers, to carry out the NBNW Program.

(b) RETIRED LAW ENFORCEMENT OFFICER DEFINED.—In this section, the term ''retired law enforcement officer'' means an individual who—

(1) has retired from employment as a Federal, State, or local law enforcement officer; and

(2) has not reached the Social Security retirement age (as defined in section 216(*l*) of the Social Security Act (42 U.S.C. 416(*l*)).

(c) EFFECT ON PERSONNEL CAPS.—Employees of BRAVE Force hired to carry out the NBNW Program shall be considered as additional agents and shall not count against the USCBP personnel limits.

(d) RETIRED ANNUITANTS.—An employee of BRAVE Force who has worked for the Federal Government shall be considered a rehired annuitant and shall have no reduction in annuity as a result of salary payment for such employees' service in the NBNW Program.

SEC. 153. CIVILIAN VOLUNTEERS.

(a) IN GENERAL.—The USCBP shall provide the opportunity for civilian volunteers to assist in carrying out the purposes of the NBNW Program.

(b) ORGANIZATION.—Not less than 3 civilian volunteers in the NBNW Program may report to each employee of BRAVE Force.

(c) REPORTING.—A civilian volunteer shall report a violation of Federal immigration law to the appropriate employee of BRAVE Force as soon as possible after observing such violation.

(d) REIMBURSEMENT.—A civilian volunteer participating in the NBNW Program shall be eligible for reimbursement by the USCBP for expenses related to carrying out the duties of the NBNW Program.

SEC. 154. LIABILITY OF BRAVE FORCE EMPLOYEES AND CIVILIAN VOLUNTEERS.

(a) CIVILIANS.—A civilian volunteer participating in the NBNW Program shall not be entitled to any immunity from personal liability by virtue of the volunteer's participation in the NBNW Program.

(b) EMPLOYEES.—An employee of the BRAVE Force shall not be liable for the actions of a civilian volunteer participating in the NBNW Program.

SEC. 155. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

SA 3206. Mr. KYL (for himself and Mr. CORNYN) proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

On page 329, line 11, insert ''(other than subparagraph (C)(i)(II) of such paragraph (9))'' after ''212(a)''.

On page 330, strike lines 10 through 15, and insert the following:

''(3) INELIGIBILITY.—An alien is ineligible for conditional nonimmigrant work authorization and status under this section if—

''(A) the alien is subject to a final order of removal under section 217, 235, 238, or 240;

''(B) the alien failed to depart the United States during the period of a voluntary departure order entered under section 240B;

''(C) the Secretary of Homeland Security determines that—

''(i) the alien, having been convicted by a final judgment of a serious crime, constitutes a danger to the community of the United States;

''(ii) there are reasonable grounds for believing that the alien has committed a serious crime outside the United States prior to the arrival of the alien in the United States; or

''(iii) there are reasonable grounds for regarding the alien as a danger to the security of the United States;

''(D) the alien has been convicted of any felony or three or more misdemeanors; or

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SA 3207. Mr. CORNYN proposed an amendment to amendment SA 3206 proposed by Mr. KYL (for himself and Mr. CORNYN) to the amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the end of the amendment add the following:

This provision shall become effective 1 day after enactment.

SA 3208. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER SECURITY CERTIFICATION.

Notwithstanding any other provision of law, beginning on the date of the enactment of this Act, the Secretary may not implement a new H–2C guest worker program, a new conditional nonimmigrant work authorization program, any Title IV provisions, or any similar or subsequent program authorizing the employment of alien workers until the Secretary provides written certification to the President and the Congress that the borders of the United States are reasonably sealed and secured, and that Title I border security provisions are implemented.

SA 3209. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ACCESS TO EARNED ADJUSTMENT AND MANDATORY DEPARTURE AND REENTRY.

(a) SHORT TITLE.—This section may be cited as the ''Immigrant Accountability Act of 2006''.

(b) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

''SEC. 245B. ACCESS TO EARNED ADJUSTMENT.

''(a) ADJUSTMENT OF STATUS.—

''(1) PRINCIPAL ALIENS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall adjust to the status of an alien lawfully admitted for permanent residence, an alien who satisfies the following requirements:

''(A) APPLICATION.—The alien shall file an application establishing eligibility for adjustment of status and pay the fine required under subsection (m) and any additional amounts owed under that subsection.

''(B) CONTINUOUS PHYSICAL PRESENCE.—

''(i) IN GENERAL.—The alien shall establish that the alien—

''(I) was physically present in the United States on or before the date that is 5 years before the date of introduction of the Immigrant Accountability Act of 2006;

''(II) was not legally present in the United States on such date of introduction; and

''(III) did not depart from the United States during the 5-year period ending on such date of introduction, except for brief, casual, and innocent departures.

''(ii) LEGALLY PRESENT.—For purposes of this subparagraph, an alien who has violated any conditions of his or her visa shall be considered not to be legally present in the United States.

''(C) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien shall establish that the alien is not inadmissible under section 212(a) except for any provision of that section that is waived under subsection (b) of this section.

''(D) EMPLOYMENT IN UNITED STATES.—

''(i) IN GENERAL.—The alien shall have been employed in the United States, in the aggregate, for—

''(I) at least 3 years during the 5-year period ending on the date of introduction of the Immigrant Accountability Act of 2006; and

''(II) at least 6 years after the date of enactment of such Act.

''(ii) EXCEPTIONS.—

''(I) The employment requirement in clause (i)(I) shall not apply to an individual who is under 20 years of age on the date of enactment of the Immigrant Accountability Act of 2006.

''(II) The employment requirement in clause (i)(II) shall be reduced for an individual who cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy.

''(III) The employment requirement in clause (i)(II) shall be reduced for an individual who is under 20 years of age on the date of enactment of the Immigrant Accountability Act of 2006 by a period of time equal to the time period beginning on such date of enactment and ending on the date on which the individual reaches 20 years of age.

''(IV) The employment requirements in clause (i) shall be reduced by 1 year for each year of full time post-secondary study in the United States during the relevant period.

''(iii) PORTABILITY.—An alien shall not be required to complete the employment requirements in clause (i) with the same employer.

''(iv) EVIDENCE OF EMPLOYMENT.—

''(I) CONCLUSIVE DOCUMENTS.—For purposes of satisfying the requirements in clause (i), the alien shall submit at least 2 of the following documents for each period of employment, which shall be considered conclusive evidence of such employment:

''(aa) Records maintained by the Social Security Administration.

''(bb) Records maintained by an employer, such as pay stubs, time sheets, or employment work verification.

''(cc) Records maintained by the Internal Revenue Service.

''(dd) Records maintained by a union or day labor center.

''(ee) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records.

''(II) OTHER DOCUMENTS.—Aliens unable to submit documents described in subclause (I) shall submit at least 3 other types of reliable documents, including sworn declarations, for each period of employment to satisfy the requirement in clause (i).

''(III) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in clause (i) be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(v) BURDEN OF PROOF.—An alien applying for adjustment of status under this subsection has the burden of proving by a preponderance of the evidence that the alien has satisfied the employment requirements in clause (i). An alien may satisfy such burden of proof by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference. Once the burden is met, the burden shall shift to the Secretary of Homeland Security to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

''(E) PAYMENT OF INCOME TAXES.—Not later than the date on which status is adjusted under this subsection, the alien shall establish the payment of all Federal and State income taxes owed for employment during the period of employment required under subparagraph (D)(i). The alien may satisfy such requirement by establishing that—

''(i) no such tax liability exists;

''(ii) all outstanding liabilities have been met; or

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

''(F) BASIC CITIZENSHIP SKILLS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the alien shall demonstrate that the alien either—

''(I) meets the requirements of section 312(a) (relating to minimal understanding of ordinary English and a knowledge and understanding of the history and Government of the United States); or

''(II) is satisfactorily pursuing a course of study, recognized by the Secretary of Homeland Security, to achieve such understanding of English and the history and Government of the United States.

''(ii) EXCEPTIONS.—

''(I) MANDATORY.—The requirements of clause (i) shall not apply to any person who is unable to comply with those requirements because of a physical or developmental disability or mental impairment.

''(II) DISCRETIONARY.—The Secretary of Homeland Security may waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older as of the date of the filing of the application for adjustment of status.

''(G) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The alien shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a security clearance determination by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

''(H) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) that such alien has registered under that Act.

''(I) ADJUSTMENT OF STATUS.—An alien may not adjust to an immigrant classification under this section until after the earlier of—

''(i) the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section; or

''(ii) 8 years after the date of enactment of this section.

''(2) SPOUSES AND CHILDREN.—

''(A) IN GENERAL.—

''(i) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if otherwise eligible under subparagraph (B), adjust the status to that of a lawful permanent resident for—

''(I) the spouse, or child who was under 21 years of age on the date of enactment of the Immigrant Accountability Act of 2006, of an alien who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1); or

''(II) an alien who, within 5 years preceding the date of enactment of the Immigrant Accountability Act of 2006, was the spouse or child of an alien who adjusts status to that of a permanent resident under paragraph (1), if—

''(aa) the termination of the qualifying relationship was connected to domestic violence; or

''(bb) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1).

''(ii) APPLICATION OF OTHER LAW.—In acting on applications filed under this paragraph with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

''(B) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—In establishing admissibility to the United States, the spouse or child described in subparagraph (A) shall establish that they are not inadmissible under section 212(a), except for any provision of that section that is waived under subsection (b) of this section.

''(C) SECURITY AND LAW ENFORCEMENT CLEARANCE.—The spouse or child, if that child is 14 years of age or older, described in subparagraph (A) shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a denial by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

''(3) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted lawful permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

''(b) GROUNDS OF INADMISSIBILITY.—

''(1) APPLICABLE PROVISIONS.—In the determination of an alien's admissibility under paragraphs (1)(C) and (2) of subsection (a), the following provisions of section 212(a) shall apply and may not be waived by the Secretary of Homeland Security under paragraph (3)(A):

''(A) Paragraph (1) (relating to health).

''(B) Paragraph (2) (relating to criminals).

''(C) Paragraph (3) (relating to security and related grounds).

''(D) Subparagraphs (A) and (C) of paragraph (10) (relating to polygamists and child abductors).

''(2) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7), (9), and (10)(B) of section 212(a) shall not apply to an alien who is applying for adjustment of status under subsection (a).

''(3) WAIVER OF OTHER GROUNDS.—

''(A) IN GENERAL.—Except as provided in paragraph (1), the Secretary of Homeland Security may waive any provision of section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or when it is otherwise in the public interest.

''(B) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security, other than under this subparagraph, to waive the provisions of section 212(a).

''(4) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(4) if the alien establishes a history of employment in the United States evidencing self-support without public cash assistance.

''(5) SPECIAL RULE FOR INDIVIDUALS WHERE THERE IS NO COMMERCIAL PURPOSE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(6)(E) if the alien establishes that the action referred to in that section was taken for humanitarian purposes, to ensure family unity, or was otherwise in the public interest.

''(6) APPLICABILITY OF OTHER PROVISIONS.—Section 241(a)(5) and section 240B(d) shall not apply with respect to an alien who is applying for adjustment of status under subsection (a).

''(c) TREATMENT OF APPLICANTS.—

''(1) IN GENERAL.—An alien who files an application under subsection (a)(1)(A) for adjustment of status, including a spouse or child who files for adjustment of status under subsection (b)—

''(A) shall be granted employment authorization pending final adjudication of the alien's application for adjustment of status;

''(B) shall be granted permission to travel abroad pursuant to regulation pending final adjudication of the alien's application for adjustment of status;

''(C) shall not be detained, determined inadmissible or deportable, or removed pending final adjudication of the alien's application for adjustment of status, unless the alien commits an act which renders the alien ineligible for such adjustment of status; and

''(D) shall not be considered an unauthorized alien as defined in section 274A(h)(3) until such time as employment authorization under subparagraph (A) is denied.

''(2) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall provide each alien described in paragraph (1) with a counterfeit-resistant document of authorization that—

''(A) meets all current requirements established by the Secretary of Homeland Security for travel documents, including the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note); and

''(B) reflects the benefits and status set forth in paragraph (1).

''(3) SECURITY AND LAW ENFORCEMENT CLEARANCE.—Before an alien is granted employment authorization or permission to travel under paragraph (1), the alien shall be required to undergo a name check against existing databases for information relating to criminal, national security, or other law enforcement actions. The relevant Federal agencies shall work to ensure that such name checks are completed not later than 90 days after the date on which the name check is requested.

''(4) TERMINATION OF PROCEEDINGS.—An alien in removal proceedings who establishes prima facie eligibility for adjustment of status under subsection (a) shall be entitled to termination of the proceedings pending the outcome of the alien's application, unless the removal proceedings are based on criminal or national security grounds.

''(d) APPREHENSION BEFORE APPLICATION PERIOD.—The Secretary of Homeland Security shall provide that in the case of an alien who is apprehended before the beginning of the application period described in subsection (a) and who can establish prima facie eligibility to have the alien's status adjusted under that subsection (but for the fact that the alien may not apply for such adjustment until the beginning of such period), until the alien has had the opportunity during the first 180 days of the application period to complete the filing of an application for adjustment, the alien may not be removed from the United States unless the alien is removed on the basis that the alien has engaged in criminal conduct or is a threat to the national security of the United States.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer or employee of such agency or bureau, may—

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

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

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

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

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

''(f) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person to—

''(i) file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States.

''(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), any alien or other entity (including an employer or union) that submits an employment record that contains incorrect data that the alien used in order to obtain such employment, shall not have violated this subsection.

''(g) INELIGIBILITY FOR PUBLIC BENEFITS.—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien whose status has been adjusted in accordance with subsection (a) shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of such Act (8 U.S.C. 1601 et seq.).

''(h) RELATIONSHIPS OF APPLICATION TO CERTAIN ORDERS.—

''(1) IN GENERAL.—An alien who is present in the United States and has been ordered excluded, deported, removed, or to depart voluntarily from the United States or is subject to reinstatement of removal under any provision of this Act may, notwithstanding such order, apply for adjustment of status under subsection (a). Such an alien shall not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal or voluntary departure order. If the Secretary of Homeland Security grants the application, the order shall be canceled. If the Secretary of Homeland Security renders a final administrative decision to deny the application, such order shall be effective and enforceable. Nothing in this paragraph shall affect the review or stay of removal under subsection (j).

''(2) STAY OF REMOVAL.—The filing of an application described in paragraph (1) shall stay the removal or detainment of the alien pending final adjudication of the application, unless the removal or detainment of the alien is based on criminal or national security grounds.

''(i) APPLICATION OF OTHER PROVISIONS.—Nothing in this section shall preclude an alien who may be eligible to be granted adjustment of status under subsection (a) from seeking such status under any other provision of law for which the alien may be eligible.

''(j) ADMINISTRATIVE AND JUDICIAL REVIEW.—

''(1) IN GENERAL.—Except as provided in this subsection, there shall be no administrative or judicial review of a determination respecting an application for adjustment of status under subsection (a).

''(2) ADMINISTRATIVE REVIEW.—

''(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary of Homeland Security shall establish an appellate authority to provide for a single level of administrative appellate review of a determination respecting an application for adjustment of status under subsection (a).

''(B) STANDARD FOR REVIEW.—Administrative appellate review referred to in subparagraph (A) shall be based solely upon the administrative record established at the time of the determination on the application and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

''(3) JUDICIAL REVIEW.—

''(A) DIRECT REVIEW.—A person whose application for adjustment of status under subsection (a) is denied after administrative appellate review under paragraph (2) may seek review of such denial, in accordance with chapter 7 of title 5, United States Code, before the United States district court for the district in which the person resides.

''(B) REVIEW AFTER REMOVAL PROCEEDINGS.—There shall be judicial review in the Federal courts of appeal of the denial of an application for adjustment of status under subsection (a) in conjunction with judicial review of an order of removal, deportation, or exclusion, but only if the validity of the denial has not been upheld in a prior judicial proceeding under subparagraph (A). Notwithstanding any other provision of law, the standard for review of such a denial shall be governed by subparagraph (C).

''(C) STANDARD FOR JUDICIAL REVIEW.—Judicial review of a denial of an application under this section shall be based solely upon the administrative record established at the time of the review. The findings of fact and other determinations contained in the record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record, considered as a whole.

''(4) STAY OF REMOVAL.—Aliens seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered establishing ineligibility under this section, unless such removal is based on criminal or national security grounds.

''(k) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—During the 12 months following the issuance of final regulations in accordance with subsection (o), the Secretary of Homeland Security, in cooperation with approved entities, approved by the Secretary of Homeland Security, shall broadly disseminate information respecting adjustment of status under this section and the requirements to be satisfied to obtain such status. The Secretary of Homeland Security shall also disseminate information to employers and labor unions to advise them of the rights and protections available to them and to workers who file applications under this section. Such information shall be broadly disseminated, in the languages spoken by the top 15 source countries of the aliens who would qualify for adjustment of status under this section, including to television, radio, and print media such aliens would have access to.

''(l) EMPLOYER PROTECTIONS.—

''(1) IMMIGRATION STATUS OF ALIEN.—Employers of aliens applying for adjustment of status under this section shall not be subject to civil and criminal tax liability relating directly to the employment of such alien.

''(2) PROVISION OF EMPLOYMENT RECORDS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for adjustment of status under this section or any other application or petition pursuant to other provisions of the immigration laws, shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

''(3) APPLICABILITY OF OTHER LAW.—Nothing in this subsection shall be used to shield an employer from liability pursuant to section 274B or any other labor and employment law provisions.

''(m) AUTHORIZATION OF FUNDS; FINES.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security such sums as are necessary to commence the processing of applications filed under this section.

''(2) FINE.—An alien who files an application under this section shall pay a fine commensurate with levels charged by the Department of Homeland Security for other applications for adjustment of status.

''(3) ADDITIONAL AMOUNTS OWED.—Prior to the adjudication of an application for adjustment of status filed under this section, the alien shall pay an amount equaling $2,000, but such amount shall not be required from an alien under the age of 18.

''(4) USE OF AMOUNTS COLLECTED.—The Secretary of Homeland Security shall deposit payments received under this subsection in the Immigration Examinations Fee Account, and these payments in such account shall be available, without fiscal year limitation, such that—

''(A) 80 percent of such funds shall be available to the Department of Homeland Security for border security purposes;

''(B) 10 percent of such funds shall be available to the Department of Homeland Security for implementing and processing applications under this section; and

''(C) 10 percent of such funds shall be available to the Department of Homeland Security and the Department of State to cover administrative and other expenses incurred in connection with the review of applications filed by immediate relatives as a result of the amendments made by title II of the Immigrant Accountability Act of 2006.

''(n) MANDATORY DEPARTURE AND REENTRY.—Any alien who is physically present in the United States on the date of introduction of the Immigrant Accountability Act of

2006 who seeks to adjust status under this section but does not satisfy the requirements of subparagraph (B) or (D) of subsection (a)(1) shall be eligible to depart the United States and to seek admission as a nonimmigrant or immigrant alien as described in section 245C.

''(o) ISSUANCE OF REGULATIONS.—Not later than 120 days after the date of enactment of the Immigrant Accountability Act of 2006, the Secretary of Homeland Security shall issue regulations to implement this section.''.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 245A the following:

''245B. Access to Earned Adjustment.''.

(c) MANDATORY DEPARTURE AND REENTRY.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.), as amended by this title, is further amended by inserting after section 245B the following:

''SEC. 245C. MANDATORY DEPARTURE AND REENTRY.

''(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

''(b) REQUIREMENTS.—An alien desiring an adjustment of status under subsection (a) shall meet the following requirements:

''(1) PRESENCE.—The alien shall establish that the alien—

''(A) was physically present in the United States on the date of introduction of the Immigrant Accountability Act of 2006;

''(B) has been continuously in the United States since such date, except for brief, casual, and innocent departures; and

''(C) was not legally present in the United States on that date under any classification set forth in section 101(a)(15).

''(2) EMPLOYMENT.—

''(A) IN GENERAL.—The alien shall establish that the alien—

''(i) was employed in the United States, whether full time, part time, seasonally, or self-employed, before the date on which the Secure America and Orderly Immigration Act was introduced; and

''(ii) has been employed in the United States since that date.

''(B) EVIDENCE OF EMPLOYMENT.—

''(i) IN GENERAL.—An alien may conclusively establish employment status in compliance with subparagraph (A) by submitting to the Secretary of Homeland Security records demonstrating such employment maintained by—

''(I) the Social Security Administration, Internal Revenue Service, or by any other Federal, State, or local government agency;

''(II) an employer; or

''(III) a labor union, day labor center, or an organization that assists workers in matters related to employment.

''(ii) OTHER DOCUMENTS.—An alien who is unable to submit a document described in subclauses (I) through (III) of clause (i) may satisfy the requirement in subparagraph (A) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

''(I) bank records;

''(II) business records;

''(III) sworn affidavits from nonrelatives who have direct knowledge of the alien's work; or

''(IV) remittance records.

''(iii) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in this subsection be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(iv) BURDEN OF PROOF.—An alien who is applying for adjustment of status under this section has the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements of this subsection. An alien may meet such burden of proof by producing sufficient evidence to demonstrate such employment as a matter of reasonable inference.

''(3) ADMISSIBILITY.—

''(A) IN GENERAL.—The alien shall establish that such alien—

''(i) is admissible to the United States, except as provided as in (B); and

''(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), and (7) of section 212(a) shall not apply.

''(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(4) INELIGIBLE.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

''(A) has been ordered excluded, deported, removed, or to depart voluntarily from the United States; or

''(B) fails to comply with any request for information by the Secretary of Homeland Security.

''(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

''(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status if—

''(A) the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

''(B) the alien commits an act that makes the alien removable from the United States.

''(7) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history, gang membership, renunciation of gang affiliation, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to administrative or judicial review or appeal of an immigration officer's determination as to the alien's eligibility, or to contest any removal action, other than on the basis of an application for asylum or restriction of removal pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a).

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates antifraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

''(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3 months after the date on which the application form is first made available.

''(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date on which the application form is first made available. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status.

''(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date on which the application form is first made available.

''(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

''(e) ACKNOWLEDGMENT.—

''(1) IN GENERAL.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

''(A) an acknowledgment made in writing and under oath that the alien—

''(i) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

''(ii) understands the terms of the terms of Deferred Mandatory Departure;

''(B) any Social Security account number or card in the possession of the alien or relied upon by the alien;

''(C) any false or fraudulent documents in the alien's possession.

''(2) USE OF INFORMATION.—None of the documents or other information provided in accordance with paragraph (1) may be used in a criminal proceeding against the alien providing such documents or information.

''(f) MANDATORY DEPARTURE.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall grant Deferred Mandatory Departure status to an alien who meets the requirements of this section for a period not to exceed 3 years.

''(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

''(A) depart from the United States before the expiration of the period of Deferred Mandatory Departure status;

''(B) register with the Secretary of Homeland Security at the time of departure; and

''(C) surrender any evidence of Deferred Mandatory Departure status at the time of departure.

''(3) APPLICATION FOR READMISSION.—An alien under this section may apply for admission to the United States as an immigrant or nonimmigrant while in the United States or from any location outside of the United States, but may not be granted admission until the alien has departed from the United States in accordance with paragraph (2).

''(4) EFFECT OF READMISSION ON SPOUSE OR CHILD.—The spouse or child of an alien granted Deferred Mandatory Departure and subsequently granted an immigrant or nonimmigrant visa before departing the United States shall be—

''(A) deemed to have departed under this section upon the successful admission of the principal alien; and

''(B) eligible for the derivative benefits associated with the immigrant or nonimmigrant visa granted to the principal alien without regard to numerical caps related to such visas.

''(5) WAIVERS.—The Secretary of Homeland Security may waive the departure requirement under this subsection if the alien—

''(A) is granted an immigrant or nonimmigrant visa; and

''(B) can demonstrate that the departure of the alien would create a substantial hardship on the alien or an immediate family member of the alien.

''(6) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs before the expiration of such status—

''(A) shall not be subject to section 212(a)(9)(B); and

''(B) if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant.

''(7) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(8) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to—

''(A) no fine if the alien departs not later than 1 year after the grant of Deferred Mandatory Departure;

''(B) a fine of $2,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

''(C) a fine of $3,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

''(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable and tamper-resistant, shall allow for biometric authentication, and shall comply with the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note). The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B).

''(h) TERMS OF STATUS.—

''(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

''(2) TRAVEL.—

''(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security granting the alien Deferred Mandatory Departure status.

''(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

''(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

''(ii) must establish at the time of application for admission that the alien is admissible under section 212.

''(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

''(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

''(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

''(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

''(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—Before leaving the United States, an alien granted Deferred Mandatory Departure status may not apply to change status under section 248.

''(j) APPLICATION FEE.—

''(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

''(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(k) FAMILY MEMBERS.—

''(1) IN GENERAL.—Subject subsection (f)(4), the spouse or child of an alien granted Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien.

''(2) APPLICATION FEE.—

''(A) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of $500.

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

''(l) EMPLOYMENT.—

''(1) IN GENERAL.—An alien who has applied for or has been granted Deferred Mandatory Departure status may be employed in the United States.

''(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status must be employed while in the United States. An alien who fails to be employed for 60 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may reauthorize an alien for employment without requiring the alien's departure from the United States.

''(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security system, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

''(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

''(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right to contest, other than on the basis of an application for asylum, restriction of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a), any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

''(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 208(a).

''(r) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party

or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.), as amended by this title, is further amended by inserting after the item relating to section 245B the following:

''245C. Mandatory Departure and Reentry.''.

(3) CONFORMING AMENDMENT.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by inserting ''(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 245C)'' after ''imposed''.

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection, or any amendment made by this subsection, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such amounts as may be necessary for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subsection.

(d) CORRECTION OF SOCIAL SECURITY RECORDS.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) whose status is adjusted to that of lawful permanent resident under section 245B of the Immigration and Nationality Act,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien became lawfully admitted for temporary residence.''.

On page ____, strike line __ and all that follows through page ____, line __, and insert the following:

SEC. ___. FAMILY REUNIFICATION.

(a) TREATMENT OF IMMEDIATE RELATIVES WITH RESPECT TO THE FAMILY IMMIGRATION CAP.—

(1) EXEMPTION OF IMMEDIATE RELATIVES FROM FAMILY SPONSORED IMMIGRANT CAP.—Section 201(c)(1)(A) (8 U.S.C. 1151(c)(1)(A)) is amended by striking clauses (i), (ii), and (iii) and inserting the following:

''(i) 480,000, minus

''(ii) the number computed under paragraph (3), plus

''(iii) the number (if any) computed under paragraph (2).''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(b) RECLASSIFICATION OF SPOUSES AND MINOR CHILDREN OF LEGAL PERMANENT RESIDENTS AS IMMEDIATE RELATIVES.—

(1) IMMEDIATE RELATIVES.—Section 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)) is amended—

(A) in the first sentence, by inserting ''or the spouses and children of aliens lawfully admitted for permanent residence,'' after ''United States,'';

(B) in the second sentence—

(i) by inserting ''or lawful permanent resident'' after ''citizen'' each place that term appears; and

(ii) by inserting ''or lawful permanent resident's'' after ''citizen's'' each place that term appears;

(C) in the third sentence, by inserting ''or the lawful permanent resident loses lawful permanent resident status'' after ''United States citizenship''; and

(D) by adding at the end the following: ''A spouse or child, as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1), shall be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join the spouse or parent. The same treatment shall apply to parents of citizens of the United States being entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join their daughter or son.''.

(2) ALLOCATION OF IMMIGRANT VISAS.—Section 203(a) (8 U.S.C. 1153(a)) is amended—

(A) in paragraph (1), by striking ''23,400'' and inserting ''38,000'';

(B) by striking paragraph (2) and inserting the following:

''(2) UNMARRIED SONS AND UNMARRIED DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the unmarried sons or unmarried daughters (but are not the children) of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 60,000 plus the number (if any) by which such worldwide level exceeds 226,000, plus any visas not required for the class specified in paragraph (1).'';

(C) in paragraph (3), by striking ''23,400'' and inserting ''38,000''; and

(D) in paragraph (4), by striking ''65,000'' and inserting ''90,000''.

(3) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—Section 201(f) of the Immigration and Nationality Act (8 U.S.C. 1151(f)) is amended—

(A) in paragraph (1), by striking ''paragraphs (2) and (3),'' and inserting ''paragraph (2),'';

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(4) NUMERICAL LIMITATION TO ANY SINGLE FOREIGN STATE.—Section 202 (8 U.S.C. 1152) is amended—

(A) in subsection (a)(4)—

(i) by striking subparagraphs (A) and (B);

(ii) by redesignating subparagraphs (C) and (D) as subparagraphs (A) and (B), respectively; and

(iii) in subparagraph (A), as redesignated, by striking ''section 203(a)(2)(B)'' and inserting ''section 203(a)(2)''; and

(B) in subsection (e), in the flush matter following paragraph (3), by striking '', or as limiting the number of visas that may be issued under section 203(a)(2)(A) pursuant to subsection (a)(4)(A)''.

(5) ALLOCATION OF IMMIGRATION VISAS.—Section 203(h) (8 U.S.C. 1153(h)) is amended—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking ''subsections (a)(2)(A) and (d)'' and inserting ''subsection (d)'';

(ii) in subparagraph (A), by striking ''becomes available for such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien's parent),'' and inserting ''became available for the alien's parent,''; and

(iii) in subparagraph (B), by striking ''applicable'';

(B) in paragraph (2), by striking ''The petition'' and all that follows through the period and inserting ''The petition described in this paragraph is a petition filed under section 204 for classification of the alien's parent under subsection (a), (b), or (c).''; and

(C) in paragraph (3), by striking ''subsections (a)(2)(A) and (d)'' and inserting ''subsection (d)''.

(6) PROCEDURE FOR GRANTING IMMIGRANT STATUS.—Section 204 (8 U.S.C. 1154) is amended—

(A) in subsection (a)(1)—

(i) in subparagraph (A)—

(I) in clause (iii)—

(aa) by inserting ''or legal permanent resident'' after ''citizen'' each place that term appears; and

(bb) in subclause (II)(aa)(CC)(bbb), by inserting ''or legal permanent resident'' after ''citizenship'';

(II) in clause (iv)—

(aa) by inserting ''or legal permanent resident'' after ''citizen'' each place that term appears; and

(bb) by inserting ''or legal permanent resident'' after ''citizenship'';

(III) in clause (v)(I), by inserting ''or legal permanent resident'' after ''citizen''; and

(IV) in clause (vi)—

(aa) by inserting ''or legal permanent resident status'' after ''renunciation of citizenship''; and

(bb) by inserting ''or legal permanent resident'' after ''abuser's citizenship'';

(ii) by striking subparagraph (B);

(iii) by redesignating subparagraphs (C) through (J) as subparagraphs (B) through (I), respectively;

(iv) in subparagraph (B), as so redesignated, by striking ''subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii)'' and inserting ''clause (iii) or (iv) of subparagraph (A)''; and

(v) in subparagraph (I), as so redesignated—

(I) by striking ''or clause (ii) or (iii) of subparagraph (B)''; and

(II) by striking ''under subparagraphs (C) and (D)'' and inserting ''under subparagraphs (B) and (C)'';

(B) by striking subsection (a)(2);

(C) in subsection (h), by striking ''or a petition filed under subsection (a)(1)(B)(ii)''; and

(D) in subsection (j), by striking ''subsection (a)(1)(D)'' and inserting ''subsection (a)(1)(C)''.

(c) EXCEPTIONS.—Section 212(a)(9)(B)(iii) (8 U.S.C. 1182(a)(9)(B)(iii)) is amended by adding at the end the following:

''(V) SPOUSES, CHILDREN, AND PARENTS.—The provisions of this subparagraph and subparagraph (C)(i)(I) shall be waived for

spouses and children of legal permanent residents or citizens of the United States and parents of citizens of the United States (as such terms are defined in section 201(b)(2)(A)(i)) on whose behalf a petition was filed under section 203 on or before the date of introduction of the Immigrant Accountability Act of 2006, or who are derivative beneficiaries of such a petition.''.

SA 3210. Mr. BINGAMAN proposed an amendment to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ___BORDER LAW ENFORCEMENT RELIEF ACT

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Border Law Enforcement Relief Act of 2006''

SEC. ___02. FINDINGS.

Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation's borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed $89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region

SEC. ___03. BORDER RELIEF GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Department of Homeland Security.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. ___04. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in this title shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

SA 3211. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. 232. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.

(a) IN GENERAL.—Section 214(c)(4)(A) (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance,

''(II) is a professional athlete, as defined in section 204(i)(2),

''(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

''(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country,

''(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

''(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

''(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

''(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

''(I) as such an athlete with respect to a specific athletic competition, or

''(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.''.

(b) ADVISORY OPINIONS.—Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) in paragraph (4)(D), by inserting ''(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of subparagraph (A)(i) of this paragraph),'' after ''101(a)(15)(P)''; and

(2) in paragraph (6)(A)(iii), by inserting ''(other than with respect to aliens seeking entry under subclause (II), (III), or (IV) of paragraph (4)(A)(i))'' after ''101(a)(15)(P)(i)''.

(c) PETITIONS FOR MULTIPLE ALIENS.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

''(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.''.

(d) RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

''(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).''.

SA 3212. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SOUTHWEST BORDER SECURITY TASK FORCE.

(a) SHORT TITLE.—This section may be cited as the ''Southwest Border Security Task Force Act of 2006''.

(b) SOUTHWEST BORDER SECURITY TASK FORCE PROGRAM.—

(1) ESTABLISHMENT.—The Secretary shall establish a Southwest Border Security Task Force Program to—

(A) facilitate local participation in providing recommendations regarding steps to enhance border security; and

(B) provide financial and other assistance in implementing such recommendations.

(2) NUMBER.—In carrying out the program established under paragraph (1), the Secretary shall establish at least 1 Border Security Task Force (referred to in this section as a ''Task Force'') in each State that is adjacent to the international border between the United States and Mexico.

(3) MEMBERSHIP.—Each Task Force shall be composed of representatives from—

(A) relevant Federal agencies;

(B) State and local law enforcement agencies;

(C) State and local government;

(D) community organizations;

(E) Indian tribes; and

(F) other interested parties.

(4) CHAIRMAN.—Each Task Force shall select a Chairman from among its members.

(5) RECOMMENDATIONS.—Not later than 9 months after the date of enactment of this Act, and annually thereafter, each Task Force shall submit a report to the Secretary containing—

(A) specific recommendations to enhance border security along the international border between the State in which such Task Force is located and Mexico; and

(B) a request for financial and other resources necessary to implement the recommendations during the subsequent fiscal year.

(c) BORDER SECURITY GRANTS.—

(1) GRANTS AUTHORIZED.—The Secretary shall award a grant to each Task Force submitting a request under subsection (b)(5)(B) to the extent that—

(A) sufficient funds are available; and

(B) the request is consistent with the Nation's comprehensive border security strategy.

(2) MINIMUM AMOUNT.—Not less than 1 Task Force in each of the States bordering Mexico shall be eligible to receive a grant under this subsection in an amount not less than $500,000.

(3) REPORT.—Not later than 90 days after the end of each fiscal year for which Federal financial assistance or other resources were received by a Task Force, the Task Force shall submit a report to the Secretary describing how such financial assistance or other resources were used by the Task Force and by the organizations that its members represent.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of fiscal years 2007 through 2010 to carry out this section.

SA 3213. Mr. ALLARD submitted an amendment intended to be proposed to amendment SA 3192 submitted by Mr. SPECTER (for himself, Mr. LEAHY, and Mr. HAGEL) to the bill S. 2454, to amend the Immigration and Nationality Act to provide for comprehensive reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPREHENSIVE METHAMPHETAMINE PLAN.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President, in coordination with the Secretary of State, the Attorney General, and the Secretary of Homeland Security, shall submit to the Chairman of Committee on the Judiciary of the Senate and the Chairman of the Committee on the Judiciary of the House of Representatives a formal plan that outlines the diplomatic, law enforcement, and other procedures that the Federal Government should implement to reduce the amount of Methamphetamine being trafficked into the United States.

(b) CONTENTS OF PLAN.—The plan under subsection (a) shall, at a minimum, include—

(1) a specific timeline for engaging elected and diplomatic officials in a bilateral process focused on developing a framework to reduce the inflow of Methamphetamine into the United States;

(2) a specific plan to engage the 5 countries who export the most psuedoephedrine, ephedrine, phenylpropanolamine, and other such Methamphetamine precursor chemicals during calendar year preceding the year in which the plan is prepared; and

(3) a specific funding request that outlines what, if any, additional appropriations are needed to secure the border, ports of entry, or any other Methamphetamine trafficking windows that are currently being exploited by Methamphetamine traffickers.

(c) GAO REPORT.—Not later than 100 days after the date of enactment of this Act, the Government Accountability Office shall prepare and submit to the committees of Congress referred to in subsection (a), a report to determine whether the President is in compliance with this section.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, March 30, 2006, at 10 a.m. to mark up an original bill entitled ''Foreign Investment and National Security Act of 2006.''

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on March 30, 2006, at 2:30 p.m. to conduct a hearing on ''McKinney-Vento Act Reauthorization and Consolidation of HUD's Homeless Programs.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 30, 2006, at 10 a.m., on pending Committee business.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. KYL. Mr. President. I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, March 30, 2006, at 2:30 p.m., on Competition and Convergence.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 30, 2006, at 9:30 a.m. to hold a hearing on The Hidden Cost of Oil.

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

COMMITTEE ON THE JUDICIARY

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, March 30, 2006, at 9:30 a.m. in the Dirksen Senate Office Building Room 226.

Agenda

I. Nominations: Norman Randy Smith to be U.S. Circuit Judge for the Ninth Circuit; Michael A. Chagares to be United States Circuit Judge for the Third Circuit; Patrick J. Schiltz to be U.S. District Court Judge for the District of Minnesota; Gray Hampton Miller to be United States District Judge

for the Southern District of Texas; Steven G. Bradbury to be an Assistant Attorney General for the Office of Legal Counsel; Sharee M. Freeman to be Director, Community Relations Service, U.S. Department of Justice; Jeffrey L. Sedgwick to be Director of the Bureau of Justice Statistics, U.S. Department of Justice.

II. Bills: S. 1768, A bill to permit the televising of Supreme Court proceedings—Specter, Leahy, Cornyn, Grassley, Schumer, Feingold, Durbin; S. 829, Sunshine in the Courtroom Act of 2005—Grassley, Schumer, Cornyn, Leahy, Feingold, Durbin, Graham, DeWine, Specter; S. 489, Federal Consent Decree Fairness Act—Alexander, Kyl, Cornyn, Graham, Hatch; S. 2039, Prosecutors and Defenders Incentive Act of 2005—Durbin, Specter, DeWine, Leahy, Kennedy, Feinstein, Feingold, Schumer; S. 2292, A bill to provide relief for the Federal judiciary from excessive rent charges—Specter, Leahy, Cornyn, Feinstein, Biden; S. 2453, National Security Surveillance Act of 2006—Specter; S. 2455, Terrorist Surveillance Act of 2006—DeWine, Graham.

III. Matters: S.J. Res. 1, Marriage Protection Amendment—Allard, Sessions, Kyl, Hatch, Cornyn, Coburn, Brownback; S. Res. 398, A resolution relating to the censure of George W. Bush; Feingold.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. KYL. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, March 30, 2006, to hear the legislative presentations of the National Association of State Directors of Veterans Affairs, the AMVETS, the American Ex-Prisoners of War and the Vietnam Veterans of America. The hearing will take place in room 106 of the Dirksen Senate Office Building at 10 a.m.

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

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. KYL. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations be authorized to meet on Thursday, March 30, 2006, at 10 a.m., for a hearing entitled ''Neutralizing The Nuclear and Radiological Threat: Securing the Global Supply Chain (Part Two).''

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. KYL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on March 30, 2006 at 2:30 p.m. to hold a closed hearing.

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

SUBCOMMITTEE ON DISASTER PREVENTION AND PREDICTION

Mr. KYL. Mr. President. I ask unanimous consent that the Subcommittee on Disaster Prevention and Prediction be authorized to meet on Thursday, March 30, 2006, at 11 a.m., on National Polar-Orbiting Operational Environmental Satellite System (NPOESS) Oversight.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia be authorized to meet on Thursday, March 30,2006 at 2:30 p.m, for a hearing entitled, ''Fulfilling the Promise? A Review of Veterans' Preference in the Federal Government?''

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

SUBCOMMITTEE ON PERSONNEL

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Personnel be authorized to meet during the session of the Senate on March 30, 2006, at 2 p.m., in open session to receive testimony on reserve component personnel policies in review of the Defense authorization request for fiscal year 2007.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on Thursday, March 30 at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 1577, to facilitate the transfer of Spearfish Hydroelectric Plant Number 1 to the city of Spearfish, SD; S. 1962 and H.R. 4000, bills to authorize the Secretary of the Interior to revise certain repayment contracts with the Bostwick Irrigation District in Nebraska, the Kansas Bostwick Irrigation District No. 2, the Frenchman-Cambridge Irrigation District, and the Webster Irrigation District No. 4, all a part of the Pick-Sloan Missouri Basin Program; S. 2028, to provide for the reinstatement of a license for a certain Federal Energy Regulatory Commission Project; S. 2035, to extend the time required for construction of a hydroelectric project in the State of Idaho; S. 2054, to direct the Secretary of the Interior to conduct a study of water resources in the State of Vermont; S. 2205, to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, SD, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission; and H.R. 3812, to authorize the Secretary of the Interior to prepare a feasibility study with respect to the Mokelumne River, and for other purposes.

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

PRIVILEGES OF THE FLOOR

Mr. MCCAIN. Mr. President, I ask unanimous consent that the following Judiciary Committee detailees and interns be granted the privilege of the floor for the duration of debate on S. 2454, the Comprehensive Immigration Reform Act of 2006: Kenneth Cohen, George Farmakides, and Robert Newell.

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

AMERICAN DIABETES ALERT DAY

Mr. FRIST. Mr. President, this week, the National Medical Association sponsored American Diabetes Alert Day, with the purpose of bringing the public's attention to this distressingly prevalent disease.

Approximately 20.8 million people in the United States have diabetes; 6.2 million, or about a third of that number, are unaware that they suffer from the disease, although they have it.

Among African Americans, approximately 3.2 million people, age 20 or older, have diabetes, with as many as one-third of that number remaining undiagnosed. Yet the ravages of that disease, which can be quite silent at first, continue.

These disparities also mean higher rates of heart disease, amputations, loss of eyesight, and a host of other serious complications caused by diabetes.

African Americans are over two times as likely as non-Hispanic Whites to die from the disease. Today, nobody knows exactly why, and it needs to be explored and it needs to be eliminated.

I strongly believe that the troubling persistence of health disparities, these gaps and differences that are based on race, and even where you live at times, based on socioeconomic status—diabetes being one example—is a national issue that almost by definition affects us all.

I congratulate the National Medical Association, a very active organization, a tremendous organization, for their outreach, which they have explored through conferences and through e-mail and direct mail, for raising this awareness. A third of the people don't know they have diabetes.

All this is an issue of our common humanity, our oneness, and our commitment to one another as deserving, equal, and comparable citizens. Yet these disparities exist. Even if a person disagrees with my reasons, as others have pointed out, we all suffer the economic consequences in higher insurance rates and a compromised health system.

As a doctor, I have had the opportunity to interact with hundreds, actually thousands, of patients with a

whole variety of health problems. Oftentimes, these patients have heart problems, cardiovascular problems, as a result of diabetic complications. Some of our patients with diabetes had to have heart transplants, developing a diabetes cardiomyopathy. That was in medicine, but today in the Senate, as the majority leader, working with my colleagues, I have had the opportunity to address this issue through legislative remedies.

Two years ago, in 2004, I joined a number of our colleagues on both sides of the aisle to cosponsor legislation that I have written called Closing The Health Care Gap. It was bipartisan and it addressed the issue of disparities. Our work has been ongoing, and I look forward, in the coming weeks, to addressing another bipartisan bill with the help of, again, many of the same colleagues, including Senators KENNEDY, ENZI, and many others, that addresses these health care disparities, including diabetes.

Together we are working to craft the very best possible strategies to eliminate health care disparities all across the country. With the great work of groups such as the National Medical Association, we are able to explore and educate at the grassroots level, building support for not just this legislation but for the policies in this legislation that can eliminate these gaps over time.

Speaking of grassroots, in Nashville, TN, my hometown, on April 8, citizens will go out to the location at our Nashville Zoo for the 15th annual ''Walk on the Wild Side.'' It is also known as ''America's Walk for Diabetes.'' This is a nationwide walk, and it is the American Diabetes Association's signature special event.

With strong support from the business community, including sponsorship and corporate teams, the walk raises nearly $20 million nationwide to find a cure for diabetes and to support the overall mission. I encourage those listening to sign up and throw their support behind those worthy efforts.

Dr. James Galvin, III, a close friend of mine, president of Morehouse School of Medicine, someone who has been a colleague, somebody I admire tremendously in his work at Morehouse, has said:

> Diabetes is a disease about which we can do a great deal, but only when those affected are informed and empowered to take the kind of control of this disease that is now possible.

I agree. I wholeheartedly agree. I look forward to the day when all of our citizens around the country have access to quality care, no matter what location they live in, who they are, or where they are from.

ORDERS FOR FRIDAY, MARCH 31, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, March 31. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 2454, the border security bill.

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

PROGRAM

Mr. FRIST. Mr. President, today we had some good debate, made good progress, had good discussion on this border security bill. We had hoped to have more votes on amendments to this bill this evening. We were unable to make that progress. But we will return tomorrow and try to set up votes on the three pending amendments.

Again, I am disappointed we could not schedule more action on this bill this week in terms of votes. We have Senators who are waiting to offer amendments, so I hope tomorrow we can reach agreement for a time-certain for the next votes. It is clear to me at this point that we will not be able to set any votes for tomorrow, and therefore I announce now that there will be no votes tomorrow. We will have multiple votes on Monday, and we will announce that schedule on Friday.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:49 p.m., adjourned until Friday, March 31, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate March 30, 2006:

DEPARTMENT OF VETERANS AFFAIRS

DANIEL L. COOPER, OF PENNSYLVANIA, TO BE UNDER SECRETARY FOR BENEFITS OF THE DEPARTMENT OF VETERANS AFFAIRS FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR:

CRAIG B. ALLEN, OF VIRGINIA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

ANN M. BACHER, OF FLORIDA
E. SCOTT BOZEK, OF VIRGINIA
DANIEL D. DEVITO, OF FLORIDA

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

To be lieutenant

CHRISTIAAN H. VAN WESTENDORP

To be ensign

MARY A. BARBER
MATTHEW P. BERG
CHRISTOPHER W. DANIELS
MATTHEW C. DAVIS
NATHAN P. ELDRIDGE
FRANCISCO J. FUENMAYOR
MATTHEW GLAZEWSKI
DAVID M. GOTHAN
SARAH A. T. HARRIS
MEGHAN E. MCGOVERN
DAMIAN M. RAY
LECIA M. SALERNO
RAUL VASQUEZ DEL MERCADO
WILLIAM G. WINNER
VICTORIA E. ZALEWSKI

DEPARTMENT OF JUSTICE

GARY D. ORTON, OF NEVADA, TO BE UNITED STATES MARSHAL FOR THE DISTRICT OF NEVADA FOR THE TERM OF FOUR YEARS, VICE RICHARD ZENOS WINGET.

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

LT. GEN. DAVID F. MELCHER, 0000

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. ROBERT WILSON, 0000

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 D. ROCHELLE, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C., SECTIONS 531 AND 3064:

To be colonel

SOONJA CHOI, 0000
STEVEN D. CLIFT, 0000
ROBERT KASPAR, 0000
LOUIS WALKER, 0000

To be lieutenant colonel

GERARDO FRONDA, 0000
THOMAS JACKSON, 0000
RICHARD LUCCHESSI, 0000
REBECCA TOMSYCK, 0000

To be major

WISLY AGUSTIN, 0000
JOE HAINES, 0000
ADAM B. KANIS, 0000
ANGELA LIJIN, 0000
MEHDY ZARANDY, 0000

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 30, 2006, withdrawing from further Senate consideration the following nomination:

DANIEL P. RYAN, OF MICHIGAN, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MICHIGAN, WHICH WAS SENT TO THE SENATE ON FEBRUARY 14, 2005.