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## Senate

The Senate met at 1 p.m. and was called to order by the Honorable CRAIG THOMAS, a Senator from the State of Wyoming.

### PRAYER

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

Let us pray.

Sovereign Lord, guide our Senators today. Teach them to express in word and deed the spirit of justice. Teach them to discharge their duties that other nations may see our true value and honor our decisions. Teach them to labor with such integrity that this Nation will be one we profess, a land of liberty and justice for all. Teach them to work not only for time but also for eternity. So order their steps with Your wisdom that Your will might be done on Earth. We pray in Your holy Name, Amen.

### PLEDGE OF ALLEGIANCE

The Honorable CRAIG THOMAS led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, May 22, 2006.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CRAIG THOMAS, a Senator from the State of Wyoming, to perform the duties of the Chair.

TED STEVENS,  
President pro tempore.

Mr. CRAIG assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, today we will be debating the comprehensive immigration bill. Several Senators will be coming over throughout the day to discuss either pending amendments or amendments to be proposed. At this point we have at least two amendments scheduled for votes beginning at 5:30 today. The first vote will be on the Chambliss amendment relating to wage requirements for agricultural workers. The second vote will be on the Ensign amendment which relates to the use of the National Guard.

Other amendments may be offered today, and we hope to schedule debate and votes on those amendments.

I thank my colleagues for helping us move the bill forward to this point. We will finish the bill this week, and I believe Senators will agree to reasonable debate on amendments and we can finish that bill in relatively short order.

We have other issues to consider this week prior to the recess. We will address a supplemental appropriations conference report when that measure is available for floor action. We also will be considering other conference reports that may be raised this week.

We have several important nominations that are available, or soon will be available, after committee action for the full Senate to consider. The Kavanaugh nomination is on the Executive Calendar and will be voted on this week. Other nominations are in committee and will become available.

We have the nomination, for example, of Dirk Kempthorne, our former

colleague, to be Secretary of the Interior. This week the Hayden nomination may be available from the Intelligence Committee as well.

We have the nominations of Sue Schwab for the USTR and Rob Portman for OMB—a number of nominations.

Needless to say, the days will go quickly, and we will need to work together in a collaborative, collegial way to get our business completed prior to the start of the recess.

Finally, in order to get all of this done, Friday votes are likely if we are to complete this busy agenda.

I yield the floor.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized

### DEFENSE AUTHORIZATION AND SUPPLEMENTAL APPROPRIATIONS

Mr. REID. Mr. President, if I could ask the distinguished majority leader a couple of questions, we had a lot of trouble last year and we finally worked something out on the Defense authorization bill. This is such an important bill, and I hope in the planning which is taking place that we will find some time to spend on that most important piece of legislation. I ask the majority leader if we have an idea how the supplemental is coming along? The reason I ask the question is there is no end of questions coming to me and people saying it is really important to get this done before we leave.

Mr. FRIST. Mr. President, on the Defense authorization, I have talked to both the chairman and ranking member, as I am sure the Democratic leader has, and have asked them to do their very best to address how we can best bring that bill to the floor and have

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



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reasonable time for debate and amendment where we don't have to be starting and stopping and starting and stopping like we had to do over the last several years. Both of them are working very hard in that regard. It is a high priority.

I agree with the Democratic leader. We want to address it as soon as possible. The supplemental bill is in committee now. I have met with leadership involved in that bill, in terms of the managers on Thursday night and with the House as well. I was advised to let them work hard and aggressively over these last what has now been 3 or 4 days, and I will get a report back later today.

I, too, have been both advised and called by a number of people, both from the Department of Defense, our military, and it is clear that this money is needed. We need to work together to accomplish that this week. That is my intention.

After I talk to our conferees later today, I can get back in terms of whether that is going to be possible, but we are working very hard.

Mr. President, I see the Senator from Iowa. I want to make a statement. If the Senator from Iowa would allow me to suggest the absence of a quorum so I can speak to the leader, and I will be back and talk, it shouldn't be too long.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS JOHN LUKAC AND  
CORPORAL WILLIAM SALAZAR

Mr. REID. Mr. President, I just finished a meeting in my office. It was emotional, to say the least. Two mothers—both mothers of Marine Corps men—came to my office to tell me about their boys who were killed in Iraq. I asked each of them to tell me about their sons.

Helena Lukac, of Hungarian ancestry, a beautiful woman, spoke with an accent telling me about her boy. He had better than a 4-point grade average at Durango High School. He loved math and science. He wanted to be an FBI agent or a CIA operative.

He told his mom: I am not sure I can do that because we came from a Communist country. I am not sure they would let me do that.

He joined the Marine Corps when he was 18, and at 19 years old he was killed.

Gloria Salazar's son was 23 when he was killed. He wanted to be in the Marine Corps from the time he was little, but at the first attempt he couldn't pass the physical. But he worked on his

deficiencies and came back and joined the Marine Corps. She was very proud of him. She showed me a picture of his arrival in Iraq with his camera that he used which was part of his job in Iraq.

The mothers told the same story. They knew when their sons had been killed.

Ms. Salazar was shopping in a mall, and that afternoon her son's picture kept falling out of her purse. She was so troubled she went home, and during the day she went to sleep, which was unusual. The time was assessed thereafter. She slept from the time he was injured until the time he died. The same thing happened to Helena Lukac. She was at work. She described her feeling as "a nut with nothing inside it." She felt empty.

I expressed to them my sorrow and sympathy and the appreciation of a grateful nation for these two young men having given their lives. It was a very emotional experience to hear the mothers talk about PFC John Lukac killed in Anbar Province and CPL William Salazar in Karabilah, Iraq.

#### FORMATION OF IRAQI GOVERNMENT

Mr. REID. Mr. President, like most Americans, I welcomed the news over the weekend that the Iraqi political leaders had created parts of a new government. It is certainly a useful step toward the kind of Iraq we all want to see.

Like most Americans, I hope this new government will be able to bring security and order to a country wracked by insurgency, extremist attacks, and sectarian strife. We know more work needs to be done, both with forming this government and with fashioning a secure and stable Iraq. Three of the most important security ministers are still unnamed. That is hard to comprehend. We have been waiting and waiting for a cabinet to be formed, but is it really a cabinet? As unbelievable as it may seem to many, there is even talk of disgraced Ahmed Chalabi filling one of those security posts. That is hard to comprehend, but that is what the news accounts indicate.

I wonder how much longer this administration will insist that the burden of securing Iraq continue to fall squarely on the backs of our heroic U.S. troops, troops such as John Lukac and William Salazar. Secretary Rumsfeld was asked the question in Senate hearings last week. It turned out to be a question he could not answer. This past weekend, when he was asked about the possible redeployment of U.S. forces in Iraq coming home, going someplace else, Secretary Rice said that it depends on the outcome of discussions with the Iraqi Government. Apparently, Secretary Rice believes Iraqi leaders should decide the fate of our troops.

We are almost at the midpoint of 2006, the year a bipartisan majority in

Congress said must be a year of significant transition. That is the law of the land. It passed on a bipartisan vote during the Defense authorization bill. An amendment was offered and passed on a bipartisan basis saying that the year 2006 must be a year of significant transition in Iraq, with Iraqis assuming responsibility for governing and securing their own country.

Unfortunately, there appears to be little evidence of this transition. In fact, we learned on Friday that there will be an increase in U.S. troops to deal with the recent surge in violence. But none of us should be surprised that this administration in this instance is not following the law. It hasn't on many other occasions.

April was the deadliest month of the year for coalition troops. If the current rate of violence is sustained, May will surpass April. The situation is similar for Iraq's security personnel. More Iraq military and police were killed in April than any time in the previous 6 months.

Economically, the trends are no better. Oil production is still about 400,000 barrels per day, less than it was prior to the war. Available electricity in Baghdad dropped from 16 hours per day prior to the war to its current average of 4 hours per day. Clean water is below prewar levels, and because of mismanagement and violence, only 49 of the 136 U.S. funded projects in the water sector will be completed. The rest have been abandoned. All of these factors reduce Iraq's support for our activities there and fuel anti-American sentiment and insurgent activity.

While we all should welcome this partially formed new government, we recall other political milestones that were achieved and quickly swallowed by more violence. For example, since the December election, 325 coalition troops have been killed.

In order to ensure the milestone produces a different, more lasting result, Iraqis, working with the Bush administration, must address outstanding issues surrounding their Constitution. They must form a police force and diffuse the sectarian conflicts which have left their country on the brink of civil war, if not in a civil war.

Let's not forget that while the President and his team have chosen to focus this Nation's attention on Iraq, we see resurgent Taliban activity in Afghanistan. Iran and North Korea are thumbing their noses at the international community, and there has been a surge in terror attacks across the globe. Also, the mastermind of the deadly attacks on this Nation, Osama bin Laden, remains at large, while his al-Qaida network has morphed into a global franchise operation.

This is a time of great challenge for our Nation and for the Iraqis. Great challenges require strong leadership. Today's speech by the President was yet another missed opportunity to provide that leadership. We heard little about his plan to engage Iraq's neighbors in finding a regional solution to

Iraq's problems. We heard little about his diplomatic efforts to end the sectarian strife. We heard little about his thoughts on how to put Iraq's reconstruction back on track. We heard little of what he is doing to counter extreme ideology making such dangerous inroads in Iraq and around the world.

Instead of kicking the can down the road and letting future Presidents find our way out of Iraq, as we have been told by Secretary Rice and the President himself will happen, it is time for the President to lay out the comprehensive strategy that our troops, our families, and the American people have been waiting for. They have been waiting a long time.

The Nation should no longer have to guess what is on the President's mind and grapple for some insight on what "condition based" withdrawal actually means, a phrase the Defense Secretary does not even understand. We should all understand, a full-page ad in major newspapers around the country, paid for by current CEOs, says Secretary Rumsfeld should go. These are CEOs of some of the major companies in America. "Condition based withdrawal" is a phrase the Defense Secretary does not understand. It is time for a clear plan that is as good as the men and women who serve our Nation each day. It is time for the Iraqi people to take control of their own country, their own affairs, and long past time for this administration to come up with a plan that places the burden of securing Iraq forces on Iraq itself. The burden of securing Iraq should be on Iraqis, not the United States. We have done a lot. Even though the news over the week-end creating part of the new government is a step forward, we still have a long way to go.

I apologize to my friend from Iowa for taking as much time as I did. I appreciate very much his courtesy, as usual.

#### RESERVATION OF LEADER TIME

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

#### COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006

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

The legislative clerk read as follows:

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

Pending:

Ensign/Graham modified amendment No. 4076, to authorize the use of the National Guard to secure the southern border of the United States.

Chambliss/Isakson amendment No. 4009, to modify the wage requirements for employers seeking to hire H-2A and blue card agricultural workers.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand the time is now reserved for the Senator from New Mexico to speak on the pending matter; is that correct?

The ACTING PRESIDENT pro tempore. The Senator may proceed.

Mr. DOMENICI. Mr. President, I rise today to speak about border security and the immigration reform bill. I have some very strong views on this issue because my home State shares its southern border with Mexico. Every day I hear stories about the problems of lax border security, a cause for concern among my constituents. They tell me directly the problems this causes. I am convinced we must do more to secure our borders than we have been doing. However, I am very pleased we are making headway. I hope, in the not too distant future, the American people will see the fruits of that headway. I hope I can explain in my time allotted how we are going to do more and what we are doing.

Border security and immigration enforcement should be top priorities in our debate this week. Whether they are top priorities will influence my vote on any border and immigration package considered in the Senate.

The first step to secure our border is more border security funding. I believe Senator JUDD GREGG, as chairman of the Appropriations Subcommittee on Homeland Security, understands this. Sometimes it has been difficult to let the American people hear what is going on, what he is doing in his subcommittee, what the Senate is doing when it follows his lead, and what happens when we finish work with the House on the bills that start out in his committee.

He helped us provide \$635 million for border security in fiscal year 2005 in an emergency supplemental appropriations bill. With his efforts, we provided more than \$9 billion for border security and immigration enforcement in the fiscal year 2006 Homeland Security appropriations bill. He worked to include \$1.9 billion for border security in the Senate fiscal year 2006 emergency supplemental appropriations bill. Add that up, and one can understand that Congress is finally responding to the gigantic needs of making our international borders secure.

The fiscal year 2006 emergency supplemental funding I have alluded to includes such items as \$100 million for sensors and surveillance technology; \$120 million for new Border Patrol stations, checkpoints, and vehicle barriers; \$80 million for Border Patrol vehicles; and \$790 million for border security helicopters and other air assets. Believe it or not, until recently, while we have talked a great deal about the Border Patrol and what they must do, they had helicopters from the Vietnam era. We have finally decided to buy them a new fleet of helicopters. After all these years of talking, we are finally doing something. Also, we included \$50 million for an upgraded CBP communications system.

Many Americans must be wondering, what have we been doing all these years in all these appropriations bills when we have talked so much? The truth is, we have done little. But we are doing more now.

Second, we need more border security provisions as part of border security and immigration reform legislation. Many security provisions in the current border and immigration bill are good, but they are not enough. I have filed three amendments to the bill which I will discuss shortly. I understand and think once Senators have heard these amendments and the managers have had a chance to review them, they may be accepted.

Lastly, we should try to address what to do with the millions of undocumented workers in America today. In March, I joined with a bipartisan group of Senators to support what has been called the Hagel-Martinez compromise. I supported the compromise in hopes that it would allow a border security and immigration bill to move forward. I also supported it because, as I understand the bill, anyone who came to the United States illegally after January 7 of 2004 receives no special treatment; that is, those hundreds of thousands of people who have been running to the border or who have been taken to the border, who have purchased their way to the border in the last few months, will receive no special treatment. It is my understanding these individuals—that is, post-January 7, 2004 illegal entrants—would be subject to removal and deportation under existing immigration laws. The record needs to clearly reflect that.

That means one group of people that Americans are wondering about will not receive any special privileges under this bill. They are sort of the Johnny-come-latelies who have run to the border thinking if they can get here quick enough they will be included in our immigration reform efforts. But it is my understanding that these individuals would be subject to removal and deportation under existing immigration law. I repeat that because I believe a number of Senators, on this side of the aisle at least, are indicating their support for this bill because they believe that is in the bill.

As the most senior Senator representing a southwest border State, I would like to now discuss the amendments I have filed, which I believe make eminent sense and should be accepted by the Senate.

The first is an amendment regarding Mexican cooperation. This amendment will require the Secretary of State to cooperate with Mexico to improve border security and to reduce border crime. The amendment is the result of a lot of hard work and is cosponsored by the distinguished Senator from Connecticut, Mr. DODD, who is very familiar with the border problems and the problems with Mexico.

I would like to read that amendment because a reading of it does more than

I could do by trying to summarize it. This amendment has as its purpose:

To improve coordination between the United States and Mexico regarding border security, criminal activity, circular migration, and for other purposes.

(a) COOPERATION REGARDING BORDER SECURITY.—The Secretary of State, in cooperation with the Secretary of Homeland Security and representatives of Federal, State, and local law enforcement agencies that are involved in border security and immigration enforcement efforts, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico regarding—

(1) improved border security along the international border between the United States and Mexico;

(2) the reduction of human trafficking and smuggling between the United States and Mexico;

(3) the reduction of drug traffic and smuggling between the United States and Mexico;

(4) the reduction of gang membership in the United States and Mexico;

(5) the reduction of violence against women in the United States and Mexico; and

(6) the reduction of other violence and criminal activity.

Next:

(b) COOPERATION REGARDING EDUCATION ON IMMIGRATION LAWS.—The Secretary of State, in cooperation with other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to carry out activities to educate citizens and nationals of Mexico regarding eligibility for status as a non-immigrant under United States' law to ensure that the citizens and nationals are not exploited while working in the United States.

(c) COOPERATION REGARDING CIRCULAR MIGRATION.—The Secretary of State, in cooperation with the Secretary of Labor and other appropriate Federal officials, shall work with the appropriate officials from the Government of Mexico to improve coordination between the United States and Mexico to encourage circular migration, including assisting in the development of economic opportunities and providing job training for citizens and nationals in Mexico.

(d) ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit to Congress a report on the actions taken by the United States and Mexico under this section.

I believe this amendment is absolutely necessary, and I am very pleased Senator DODD has joined me in supporting the amendment. I hope this will become part of this bill. My amendment will require an annual report which I think will push the leaders of Mexico to do the kinds of things that Americans expect these two countries to do. If we do not work together, we will have chaos. But with an agreement to work together on these issues, annually the people of both countries should know what is going on in terms of cooperation in the areas I have just spoken to.

Now, sources estimate that as much as 85 percent of apprehended illegal immigrants are from Mexico. So we must work with Mexico to address the security of our southern border and the number of illegal entries from Mexico.

My amendment calls on the Secretary of State to work with Mexico to

improve border security; reduce human smuggling, drug trafficking, violence against women, and to inform Mexican nationals of the benefits of U.S. immigration. I have just read the amendment in its entirety on each of these subjects.

Mexico must do its part in this initiative.

On Sunday, there was an Associated Press article titled "Mexico Works to Bar Non-Natives from Jobs." That article says—and I quote—

Even as Mexico presses the United States to grant unrestricted citizenship to millions of undocumented Mexican migrants, its officials at times calling U.S. policies "xenophobic," Mexico places daunting limitations on anyone born outside its territory.

Mexico expects us to have much more humane, much more liberal, and much more constructive immigration policies in our Nation than it is willing to implement within its own borders. Can you imagine the uproar if we were to try to make our immigration policies anything like the policies of Mexico?

In addition to changing its own immigration policies, Mexico has some other responsibilities, in my view. How many of its citizens, seeking economic sustenance, does Mexico expect us to take before it reforms its own economic policies?

Estimates released over the weekend reveal that about 10 percent of the Mexican workforce now works not in its homeland but in the United States, and that 10 percent provides about 15 percent of the Mexican national income.

We have an unusual, perhaps unique, situation along the border between the United States and Mexico. On no other border of this length in the world does such a disparity exist between the economic prowess and programs of the two nations sharing such a border.

Here is America, the leading economy in the world, bordered for almost 2,000 miles by a nation that persists in economic policies that have failed to provide sufficient jobs or salaries for much of its people. No similar situation exists anywhere on the globe. So we have a unique challenge that is attendant to this unique situation.

That challenge needs to be met not just by the United States, but by Mexico, too. They must join us in an effort to solve this challenge. Economic reform, greater emphasis on the private economy, and modernizing more of its facilities remain great challenges that Mexico must face.

We are forced to tighten our borders not because we are a mean nation, but because the economy to the south of us is driving millions to our country's economy. I believe my amendment will provide for more cooperation between the United States and Mexico. As a result, I believe our border could be more secure.

I have another amendment that has to do with Federal judges. I note the distinguished Senator from California, Mrs. FEINSTEIN, is on the Senate floor,

and her state is impacted by this amendment. It has to do with the inadequate number of Federal judges that is going to result when this new law is put into effect. The U.S. district courts in the southwest are overly burdened with immigration caseloads. We must have additional judges, as recommended by the 2005 Judicial Conference.

Let me explain. While immigration cases typically go before immigration judges, repeat offenders can be charged with felonies and tried in Federal district court. As a result, four of our district courts have immigration caseloads that total more than 50 percent of their total criminal filings.

The fiscal year 2004 immigration caseload for the Southern District of Texas totaled 3,668 filings. This is more than 65 percent of the district's 5,599 criminal filings.

The District Court for Arizona had 2,404 immigration filings, more than 59 percent of the district's 4,007 criminal filings.

The Southern District of California had 2,206 immigration filings. That is more than 64 percent of its total 3,400 criminal filings.

The district court for my home State of New Mexico had 1,502 immigration filings. That is more than 60 percent of its total of 2,497 criminal filings.

I am glad we are improving border security and interior enforcement with this legislation. But, obviously, we must also provide the adequate machinery to go along with that, and that means enough Federal judges to handle the caseload that will be generated.

In short, if we put more Border Patrol agents and immigration personnel on the southwestern border, we need to provide more resources to the other Federal agencies that also deal with immigration.

The immigration bill recognizes this to some degree by calling for more DHS and DOJ attorneys, public defenders, and immigration judges. But we must add new district judges necessary to hear the cases of repeat immigration law violators. Failure to do that means we will create even more of an unworkable situation that already involves mass arraignments and sentencings.

As we work on this bill to provide more resources to the Departments of Homeland Security and Justice, we must also address related needs, so I am proud to offer this amendment with Senators KYL, CORNYN, and HUTCHISON.

I also address a related need for more deputy marshals in an amendment. We have a dramatic shortage of deputy marshals to handle the increased caseload that will be associated with repeat immigration law violators. My third amendment, offered with Senators BINGAMAN, KYL, CORNYN, and HUTCHISON, awaits consideration. It adds 50 new deputy marshals each year for 5 years.

Lastly, I would just comment on a very important part of the bill, the land port-of-entry improvements sections. Those provisions are based on

legislation I authored in the 108th Congress with Senator DORGAN and which 13 other border state Senators cosponsored.

These provisions address the needs of our land ports of entry.

I am grateful that the managers of the bill have adopted that legislation as part of their bill. These sections are critical because neither American border has undergone a comprehensive infrastructure overhaul since Senator DeConcini, a Senator from Arizona, and I put forth an effort to modernize the southwest border 20 years ago. We have done nothing comprehensive since 1986 on either the north or south international border. A great deal has changed since then, including the passage of legislation to improve security of our airports and seaports, following September 11, 2001.

I appreciate Chairman SPECTER including my legislation to identify port-of-entry infrastructure and technology improvement projects, prioritize and implement these projects based on need, require a plan to assess the vulnerabilities of each of the ports of entry located on the northern and southern borders of our great Nation, implement a technology demonstration program to evaluate new ports of entry technologies, and provide training necessary for personnel who must implement these new technologies. I believe these provisions are essential for border security. I am glad and appreciative that they are in the bill.

Mr. President, we must secure our international borders. I believe with Chairman GREGG's leadership on the Homeland Security Appropriations Subcommittee and strong border security provisions in this bill, we can do just that.

I thank the Chair for the time granted me to express my views and to the Senators who have listened. Certainly, I hope what I have said will have an impact to some extent on this bill and that the amendments that have not yet been adopted, of which I have spoken, will, before we come to final closure, become part of this great effort to secure our borders, provide for an orderly transition for those who have come to our country illegally, and create orderly rules for future guest workers. This is important so the relationships between America and other countries can move forward, and so our country, which is going to need immigrants in the future, can look forward to that in an orderly manner based on a border that is secure and an agreement between the U.S. and Mexico that is going to be carried out and rendered operative.

I yield the floor.

AMENDMENT NO. 4087

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from New Mexico for his thoughtful comments on the bill. I have the privilege of serving as a member of the Energy

Committee, of which he is chairman. It has been a pleasure for me to serve under his chairmanship. I thank him for those comments.

I come to the floor to discuss an amendment, SA 4087, which I filed this morning. It is entitled "To modify the Conditions Under Which Aliens Who Are Unlawfully Present in the United States Are Granted Legal Status." I ask unanimous consent that Senator HARKIN be added as a cosponsor of the amendment.

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

Mrs. FEINSTEIN. I ask unanimous consent that letters of support for the amendment from the Congressional Hispanic Caucus and over 115 groups and organizations from around the country be printed in the RECORD.

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

CONGRESS OF THE  
UNITED STATES,  
Washington, DC, May 22, 2006.

DEAR SENATOR: We write to express our strong support of the Feinstein amendment to S. 2611 and ask you to vote for it when considered on the Senate floor.

The Feinstein "orange card" amendment would simplify the implementation of the legalization program considerably, creating a uniform and tough path to permanency for all hard-working undocumented immigrants living in the United States—without providing them an automatic pardon or amnesty.

To qualify, undocumented individuals would be required to have been physically present in the United States and working by January 1, 2006. They would have to pay a \$2000 fine and back taxes, learn English and American civics, and pass extensive criminal and security background check. After working for at least 6 years, orange card holders could apply for legal permanent residence, but only after all current applicants for a green card are adjudicated.

S. 2611, as currently drafted, creates a complicated, three-tiered process that could undermine the success of the legalization program. We fear that without amendment, the legalization program will be costly and difficult to administer, prone to widespread fraud and inherently unfair to those that it would, perhaps even inadvertently, exclude.

It is our position that for a comprehensive approach to work, immigration reform must be tough and enforceable and bring as many undocumented individuals out of the shadows as possible. If reform fails to do this, we will be wasting an important and historic opportunity to get at the root of the problem with our immigration policy. Rather than fixing our broken system once and for all, S. 2611 could postpone our ability to get control of migration flows into our country and secure our homeland.

The Feinstein amendment would strengthen the effectiveness and fairness of S. 2611, and is, therefore, in the best interests of all Americans. We urge you to vote yes on the Feinstein amendment.

Sincerely,

GRACE FLORES  
NAPOLITANO,  
Chair, Congressional  
Hispanic Caucus  
(CHC).

LUIS V. GUTIERREZ,  
Chair, CHC Immigra-  
tion Task Force.

#### COALITION FOR COMPREHENSIVE

#### IMMIGRATION REFORM.

DEAR SENATOR: On behalf of the undersigned organizations, we are writing to express our strong support for the Feinstein "Orange Card" amendment which replaces the three-tiered treatment of undocumented immigrants in S. 2611 with one simple process that applies to undocumented immigrants who lived in the U.S. on January 1, 2006 and meet other strict requirements including paying taxes, learning English, passing criminal and security background checks, and paying a \$2000 fine.

Under the Feinstein amendment Orange Card holders may become lawful permanent residents when all current applicants for green cards have been received from them (estimated to be 6 years), or 8 years after the bill becomes law, whichever is earlier. This means that they are essentially "in line" behind those who are currently awaiting visas through our legal immigration system. Orange Card holders must check in each year with the government and show that they continue to meet all of the requirements listed above.

There are numerous other important advantages of the Feinstein Orange Card amendment including: one simple process to legalize qualifying undocumented immigrants who entered the U.S. before January 1, 2006; equal treatment of all family members; and ease of administration with less potential for fraud. Moreover, the amendment increases the effectiveness of comprehensive immigration reform by maximizing the extent to which undocumented immigrants currently in the United States can access a path to U.S. citizenship.

We are deeply concerned that S. 2611 will exclude too many immigrants who are hard working, law abiding, and making important contributions to this country. We believe the best way to reform the law is to maximize the number of immigrants who legalize and to create a process that works. We urge you to recognize the many contributions that these immigrants make to our country and provide a path to citizenship which is consistent with the spirit of S. 2611 in that immigrants would have to meet the same requirements for working paying taxes, learning English, and waiting in line behind others but without creating unnecessary and cumbersome parallel processes which will be difficult to administer and will leave too many behind.

We strongly support the Feinstein Orange Card amendment and urge you to support it.

Sincerely,

ACORN; Aceraimiento Hispano de Carolina del Sur; The American-Arab Anti-Discrimination Committee; American Friends Service Committee, Miami; Asian American Justice Center; Asian Americans for Equality; Association of Mexicans in North Carolina (AMEXCAN); CASA of Maryland, Inc.; Center for Community Change; The Center for Justice, Peace and the Environment; Center for Social Advocacy; Central American Resource Center/CARECEN-L.A.; Centro Campesino Inc.; Coalition for Asian American Children and Families (CACF); Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA); Coalition for New South Carolinians; Community Wellness Partnership of Pomona; Dignity Through Dialogue and Education; Eastern Pennsylvania Conference of the United Methodist Church; El Centro Hispanoamericano; El Centro, Inc.; Empire Justice Center; En Camino, Diocese of Toledo; FIRM (Fair Immigration Reform Movement); Family & Children's Service; Fanm Ayisyen Nan Miyami/Haitian Women of Miami, Inc.; The Farmworker Association of Florida Inc.; Farmworkers Association of Florida; Florida Immigrant Coalition;

Fuerza Latina; Fundacion Salvadoreña de la Florida; Georgia Association of Latino Elected Officials (GALEO); Guatemalan Unity Information Agency; Haitian Women of Miami; HIAS and Council Migration Service of Philadelphia; Heartland Alliance; Hebrew Immigrant Aid Society (HIAS); Hispanic American Association; Hispanic Coalition, Miami; Hispanic Federation; Hispanic Women's Organization of Arkansas; Holy Redeemer Lutheran Church, San Jose, CA; ISALAH, Twin Cities and St. Cloud Regions, MN; Illinois Coalition for Immigration and Refugee Rights; Interfaith Coalition for Immigrant Rights, California; Interfaith Coalition for Worker Justice of South Central Wisconsin (ICWJ); Intl. Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, Miami; International Immigrants Foundation; International Institute of Rhode Island; Institute of the Sisters of Mercy of the Americas; Irish American Unity Conference; Irish Immigration Pastoral Center, San Francisco; Irish Lobby for Immigration Reform; Korean American Resource and Cultural Center, Chicago, IL; Korean Resource Center, Los Angeles, CA; JUNTOS;

Joseph Law Firm, PC; LULAC; Labor Council for Latin American Advancement, LCLAA; Latin American Immigrants Federation; Latin American Integration Center, New York City; Latino and Latina Roundtable of the San Gabriel Valley and Pomona Valley; Latino Leadership, Inc.; Latinos en Acción de CCI, a chapter of Iowa Citizens For Community Improvement; Law Office of Kimberly Salinas; League of Rural Voters; MALDEF; Make the Road by Walking; Mary's Center for Maternal and Child Care; Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA); Medical Mission Sisters' Alliance for Justice; Michigan Organizing Project; Minnesota Immigrant Freedom Network; The Multi-Cultural Alliance of Prince George's County Inc.; Nashville Area Hispanic Chamber of Commerce; National Advocacy Center of the Sisters of the Good Shepherd; National Alliance of Latin American & Caribbean Communities (NALACC); National Capital Immigration Coalition (NCIC); National Council of La Raza; National Farm Worker Ministry (NFWM); National Immigration Forum; National Korean American Service & Education Consortium, Los Angeles, CA; Nationalities Service Center; Nebraska Appleseed Center for Law in the Public Interest; Neighbors Helping Neighbors; NETWORK—A National Catholic Social Justice Lobby; New York Immigration Coalition; ONE Lowell, Lowell, MA; Pennsylvania ACORN; People For the American Way (PFAW); Pineros y Campesinos Unidos del Noroeste (PCUN); Presbyterian Church (USA), Washington Office; Project HOPE; Project for Pride in Living; Rockland Immigration Coalition; Rural Coalition/Coalicion Rural; Service Employees International Union (SEIU); SEIU Florida Healthcare Union; SEIU Local 32BJ; Seattle Irish Immigrant Support Group; Society of Jesus, New York Province; South Asian American Leaders of Tomorrow; Tennessee Immigrant & Refugee Rights Coalition (TIRRC); UN DIA (United Dubuque Immigrant Alliance); UNITE HERE! U.S. Committee for Refugees and Immigrants (USCRI); Unite for Dignity for Immigrant Workers Rights, Inc.; United Farm Workers, Miami; United Food and Commercial Workers; United Methodist Church, General Board of Church and Society; Virginia Justice Center for Farm and Immigrant Workers; We Count!; Westchester Hispanic Coalition; Westside Community Action Network Center (Westside CAN Center); The Workmen's Circle/Arbeter Ring; YKASEC—Empowering the Korean American Community, New York, NY; Yee & Durkin, LLP.

Mrs. FEINSTEIN. Mr. President, I make these remarks as a 13½-year member of the Senate Judiciary Committee and the Immigration Subcommittee. I also come from a State which is very large in terms of immigrants, both legal and illegal, and a State which is a dynamic economic engine for our country. I strongly believe that any comprehensive immigration bill must address three issues: a strengthening of our borders so that they are safe, effective, strong; a limited guest worker program and an overhaul of the visa system; and most importantly, I believe, the creation of a pathway to earned legalization for the large number of people, estimated at between 10 and 12 million, who live today invisibly in our Nation and who have become a critical part of the American workplace and on whom employers depend to do work Americans will simply not do.

I respond to our analysis of the Hagel-Martinez amendment, and my remarks are in two parts. The first part will be to propose an alternative to Hagel-Martinez. The second part will be a critique on what I see are substantial flaws in the Hagel-Martinez amendment.

I first thank both Senators HAGEL and MARTINEZ. They have done a great service to the Senate and our country by trying to come up with a compromise solution to what is a major problem facing our Nation. Nonetheless, I find significant structural and practical faults and have tried to correct those with the proposal I have just introduced and will be speaking on now.

I am introducing what is called an orange card amendment. This amendment would streamline the process for earned legalization. It would create a more workable and practical program and dedicate the necessary dollars to cover its costs of administration. This amendment builds on the compromises already agreed to under McCain-Kennedy and Hagel-Martinez, and it incorporates the amendments already adopted on the Senate floor. But it eliminates what I see as an unworkable three-tiered program under Hagel-Martinez.

This amendment only deals with earned legalization. It does not change any of the border security provisions, the guest worker program, or any other part of this bill. Therefore, this amendment would essentially eliminate the program created by Hagel-Martinez and replace it with the orange card program I am now going to explain.

Under this amendment, all undocumented aliens who are in the United States as of January 1, 2006, would immediately register a preliminary application with the Department of Homeland Security. At the time of the registration, they would also submit fingerprints at the U.S. Customs and Immigration Service's facility so that criminal and national security back-

ground checks could commence immediately. That is the first step. It would also create a more precise registration system that would allow the immediate inflow of information into the Department of Homeland Security to be processed electronically, which the Hagel-Martinez amendment does not, and which is what we have been told is essential to ensuring that DHS can handle this new workload. It would give the Department time to vet the application through a thorough and orderly process. This would be the first step.

Under the second step, petitioners would submit a full application for an orange card in person by providing the necessary documents to demonstrate their work history and their presence in the United States. Their application would also require that they pass a criminal and national security background check that would be carried out based on the information and fingerprints from the preapplication; they demonstrate an understanding of English and U.S. history and Government, as required when someone applies for their citizenship; they have paid their back taxes; and they would pay a \$2,000 fine. The money from this fine would be used to cover the costs of administering the program. These requirements are the second step of what is required to earn an orange card. They also comply with previous amendments passed on the floor of the Senate during this debate.

If the application is approved, each individual would be issued what I call an orange card. I selected orange because the color had no connotation I could think of. This card would be encrypted with a machine-readable electronic identification strip that is unique to that individual. The card itself would contain biometric identifiers, anti-counterfeiting security features, and an assigned number that would place that individual at the end of the current line to apply for a green card. The number would correspond to the length of time that the petitioner has been in the United States so that those who have been here the longest would be the first to follow those currently waiting to receive a green card. That is the 3.3 million people outside of the country awaiting a green card. These cards would go in order following the expunging of that line.

The issuance of an orange card would allow individuals to remain in the United States legally and work, as well as travel in and out of the country. It would become their fraud-proof identifier, complete with a photo and fingerprints. This is the second step to earning legalization.

The third step is that on an annual basis, each individual who applies for an orange card would submit to DHS documentation either electronically or by mail that shows what they have been doing in that year, the work they have carried out, that they have, in fact, paid their taxes that year, and



whether they have been convicted of any crime during that year, either through court documents or an attestation, and they would pay a \$50 processing fee. These three steps, plus the required wait at the back of the green card line, clearly indicates that this is not an amnesty program.

The legalization in the orange card must be earned, and it must be earned over a substantial period of time. It would be available to all who are here from January of this year.

This language will ensure that there are enough funds to run the program because there is a \$2,000 fine that would be dedicated to paying for the administration of the program and a \$50 annual processing fee. For example, assuming there are between 10 and 20 million undocumented aliens already in the United States who would have to pay a \$2,000 fine, if 10 million came forward, that alone would raise \$20 billion. So the program would be covered. By including this language, this amendment protects against creating a new burden on taxpayers and ensures that the Federal Government has the necessary money to make the program work.

Another safeguard contained in the amendment is the annual reporting requirement. By including this process, this amendment will ensure that individuals who apply to this program remain productive and hard-working members of their communities. The amendment requires that individuals must work for at least 6 years before they may adjust their status. Realistically, from what we know about the number of green card petitioners legally waiting in other countries for their green card, it is much more likely that they would have to wait a longer time before the process is completed. Again, this is not amnesty. It is a clear path to an earned legalization. These prospective reporting requirements ensure that only individuals who deserve to adjust their status and continue to be productive members of their communities may become legal permanent residents.

In addition, by focusing on prospective requirements, this amendment streamlines the process and helps avoid the bureaucratic morass that has been created other times when Congress has acted. If we don't get this right, we will end up repeating mistakes of the past. We will simply create new incentives for illegal immigration, and we will enhance the problems our country now faces in tracking who is coming and going across our borders.

Remember, it is estimated that about one-third of those who receive visas do not leave the United States when their visas expire. So the problem is not only people coming across the border; the problem is also people misusing their visas. In 2004, there were just over 30 million visas issued. That is an unbelievable amount, but it is true. That means there could be up to 10 million people who overstayed their visas and remained in the United States. Now, of

course, most of them probably didn't stay here permanently. But it is clear from these statistics that our visa program has a serious problem when it comes to enforceability.

I strongly believe we must find an orderly way to allow those already here, many of whom have families, strong community ties, and some who have U.S. citizen children, to earn legalization over a substantial period of time. And virtually every poll I have seen has shown that over 70 percent of the American people agree. They know there are many people who are critical parts of our workforce. They work in agriculture, in landscaping, in housing, in the service industry, in the hotel industry, and they work all throughout our economy. I know some who not only have children, but their children are excelling. They not only live here, but they own homes, pay taxes, and they work hard. This is important so that this population can live fully productive lives without being subject to abuse or exploitation, and so that American commerce has the workforce that is necessary for agriculture, as well as many other industries.

During consideration of this bill in the Judiciary Committee, of which you are a distinguished member, Mr. President, we adopted an amendment referred to as the McCain-Kennedy program that was offered by Senator GRAHAM. This amendment created an earned legalization program that would also set up a number of hurdles individuals must pass through in order to earn their legalization. The Graham amendment was adopted by a bipartisan vote of 12 to 5 and was in the base bill previously considered by the Senate.

However, since that time, a new program was created and replaced McCain-Kennedy in the underlying bill. That program is known as the Hagel-Martinez compromise. It is important to point out that neither this body nor the Judiciary Committee has voted to adopt the three-tiered system which the Hagel-Martinez compromise proposes and which is now before this body.

Hagel-Martinez would treat people differently, depending on how long they have been in the United States. It is estimated that 6.7 million have been in the United States for more than 5 years; 1.6 million, less than 2 years; and 2.8 million, 2 to 5 years. The source of the numbers is the Pew Current Population Survey. So we have three tiers—more than 5 years, 2 to 5 years, and less than 2 years.

After an examination of the Hagel-Martinez language, I have come to believe that the three-tiered system is unworkable, that it would create a bureaucratic nightmare and it would lead to substantial fraud. My staff has consulted with current and former Government staff who have expressed serious concerns with the practical implications of how such a program could be implemented.

We already know the Department of Homeland Security is overburdened.

Just for a moment, look at the problems they face today. Our current system is running neither efficiently nor effectively, and we all know that. Let me just put on the table a few examples.

Currently, the Department of Homeland Security is struggling to implement a fully functioning US-VISIT Program to monitor those who are entering and exiting our country. This system of checking people in and out with a biometric card is only half completed. It is many years overdue.

The Bureau of Citizenship and Immigration Services struggles with enormous backlogs in applications from those who come to this country and attempt to adjust their status legally. FBI background checks often take between 1 or 2 years to process fingerprints. Naturalization lines are so long, it can take a person years and sometimes even decades to get through the system. How on Earth is DHS going to be able to handle a new program which cannot be run electronically and which will require massive documentation and enormous staff time?

What we have done is provided a structure for an electronic handling of the data submitted by the individuals, the electronic verification of the data, the checking out of this data. Hagel-Martinez creates a tiered system where those here less than 2 years are subject to deportation and those here from 2 to 5 years must return to their country and get themselves somehow into a guest worker program. It is estimated that 1.6 million people have been here for 2 years or less, and approximately 2.8 million have been here from 2 to 5 years. So that is 4.4 million people who are going to be asked to leave the country one way or another. Do you believe they will? History and reality shows that they will not. How will the Government find all of them and deport those who do not leave voluntarily? And if they are found and deported, what would lead us to believe they will not come right back to join their families and return to their jobs?

Secondly, individuals who have been here just under 2 or 5 years will inevitably try to argue they qualify for a higher tier. I think it is only realistic to expect that these tiers will become a breeding ground for flawed, fraudulent documents, and true evaluations will be virtually impossible to make. How on Earth are DHS personnel going to be able to verify when an individual entered the country to determine the less than 2 years or the 2- to 5-year tier?

When it comes to the second tier, 2 to 5 years, and the deferred mandatory departure program of Hagel-Martinez, I am concerned about how this process is going to function and who is going to follow through with executing its requirements. How is the Department of Homeland Security going to find these people who have been here 2 to 5 years and ensure that they actually leave the United States? Does anyone really expect that a father or a mother will voluntarily leave their families and go

outside the country for this so-called touchback? What is the incentive for people who have already been living in the United States to come forward and go through this process?

In order to understand why I have these questions, I think it is important for everyone to understand how the deferred mandatory departure program of Hagel-Martinez is supposed to work. There has been a lot of discussion about the program, but when you read the fine print of the bill language, there are serious questions and consequences that need to be better understood.

My understanding of the bill language is that a person who falls into this second tier, who has been here for 2 to 5 years, may remain in the United States legally for up to 3 years and then they must leave the country and find a legal program through which they may reenter the United States. This is the critical flaw in Hagel-Martinez. People will not risk leaving their families or their jobs in the hopes that once they leave the United States they will be able to reenter through a visa program, whether that be the new H-2C guest worker program or another visa program.

To compound this problem but ostensibly to make it possible, Hagel-Martinez waives the 200,000 visa cap that we just reduced from 325,000 in the Bingaman-Feinstein amendment on the H-2C program. In doing that, this would create a larger bureaucratic hurdle, a difficult standard of proof, and a complete decimation of the limits on the guest worker program. Instead of a new guest worker program—H-2C—that will bring in 200,000 people a year, we would be, in effect, creating a guest worker program that is supposed to accommodate 2.8 million people, plus another 200,000 people annually. So through this deferred mandatory departure, the Congress creates a guest worker program that will need to accommodate over 3 million people.

But putting all that aside, assuming this was actually doable, there are other problems. For instance, the H-2C guest worker visa only lasts a maximum of 6 years. So every person will quickly see that this is not an automatic path to earn their legalization, and they will be forced out of the country at the end of the 6 years. Will they go? I doubt it. I think you will have a new illegal immigrant problem.

The path to legalization has been modified through the amendment process on this floor, and now an H-2C worker will likely need their employer to petition for a green card on their behalf. An employer has to petition for it, meaning that, for 2 million people, their only hope to continue to live in the United States is through the grace of an employer. I think this places an undue burden on an employer, and it leaves workers vulnerable to exploitation from bad employers.

Also, H-2C workers, their spouses, and their children are not allowed to

remain in the United States if the worker fails to work for an approved employer for more than 60 consecutive at any time during the 6 years, with no exception for health problems or injuries. This will mean that if an individual does become injured or ill, they become deportable. In addition, all rights to administrative or judicial review of any future removal actions, are eliminated. Combined, in my view, these provisions are ill-advised. They make individuals extremely vulnerable to abuse, they put high burdens on employers, and they open the situation up to exploitation.

That leaves me to wonder, with these shortcomings, why would anyone in these categories participate in this program?

Why would someone who is already living here clandestinely, working, and already active in their community voluntarily come forward and register with the Department of Homeland Security and leave the United States to join this program? With these risks and pitfalls, my experience in California and my 13½ years on the Immigration Subcommittee tells me they won't. At worst, I fear we are creating an incentive for individuals to continue living under an illegal status, and I don't know how that benefits this Nation, the people of our Nation, the employers, or the people who are here today in an undocumented status. At best, we are creating a new burden on DHS to locate and monitor millions of people who are clandestinely integrated into the fabric of our Nation today.

In addition, the Hispanic National Bar Association specifically criticized this second tier, and it wrote this: We are particularly concerned that requiring individuals in the [second tier] to leave this country in order to fully legalize their status will result in severe disruptions for families, workers, and employers . . . We [also] believe that creating an additional class of undocumented immigrants will lead to greater administrative burdens as it will require the implementation of two different paths to legalization.

I think that is a very true statement.

Let me speak about the third tier for those who have been here for less than 2 years because according to Hagel-Martinez, they must all be deported. This means that DHS would be required to find and deport 2 million people. That is the bill we are going to pass—2 million, find them, deport them. How is that going to get done? Even President Bush acknowledged that such a large-scale deportation program is unworkable when he said this:

It is neither wise nor realistic to round up millions of people and send them across the border.

The only method to compel compliance with Hagel-Martinez is through employer sanctions, and we know from experience over dozens of years that employer sanctions do not work.

In fiscal year 2004, only 46 employers were convicted of illegal immigrant

employment—46 employers—out of the tens of thousands of employers whom we know employ the undocumented, and the number of employer sanctions cases resulting in fines has declined from a peak of nearly 900 under President Clinton to only 124 in fiscal year 2003. Not to mention even when employers are raided and then sanctioned, there is a backlash from the public.

So I am one who doesn't believe it is realistic to assume that, first, the Department of Homeland Security is going to be able to go out and deport 2 million people; and then secondly, to ensure that the other 2.8 million leave to go back for the touchback program.

So because of these concerns about the workability, the practicality, and the real-world impact of such a three-tiered system, I believe we have to create a much more efficient process, and I believe the orange card process is the best way to ensure that our policy goals in creating a path to legalization can be implemented and realized.

The structural flaws of Hagel-Martinez must be corrected, and this amendment essentially corrects them. It is workable, it is practical, it does not reward illegal immigration, but it creates a pathway for everyone in this country as of the beginning of this year to show over a substantial period of time annually that they have been and will continue to be a responsible and productive member of American society. It puts the burden on them to go in, to petition, to submit their fingerprints, to submit their photographs, and to wait for those to be checked out before they would be issued the orange card.

Once you have this orange card then you know you are legal. You can come in and out. It has the biometric identifiers. It is fraudproof. And the orange card has the additional ability of being numbered, so you also know that the lower numbers are going to people who have been here for the 10, 15, 20, 25, and 30 years that we know people, in fact, have been in this country. It is done in a way that can be carried out electronically, and I think that is part of the strength of the program.

Here we have a pathway that requires an individual to show over a substantial period of time that they have been and will continue to be a responsible and productive member of American society and to do so with certain tangible deeds: the tangible deed of work, the tangible deed of living a legal life, the tangible deed of paying back taxes, the tangible deed of learning to speak English. This is not amnesty. Nothing happens immediately. Amnesty is the immediate transition of someone from an illegal status to a legal status. If an individual cannot demonstrate these things, they will not receive a green card at the end of this long pathway, and then at that time they are deportable.

If a bipartisan majority agrees that an earned legalization program is a critical part of a comprehensive immigration reform bill, then the program



must work on the streets and it must be carefully structured so that it can be carried out. I believe this program can be carried out, and I am sorry to say that as currently structured, I do not believe the three-tiered process of Hagel-Martinez can or will be carried out.

This is an amendment on which I hope we will vote. It is at the desk. I ask my colleagues to look at it, study it, and if they have modifications—this is a complicated issue—if they have modifications they would like to see, please bring these to us because we hope there will be a vote in the next couple of days.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The assistant majority leader.

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

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

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

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

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

Mr. GRASSLEY. Mr. President, I have been a Member of the Senate, now in my 26th year, and one of the issues that I have some regret about is voting for amnesty in the 1986 immigration bill, the last time that we had amnesty for people who illegally came to our country.

Another regret I have that has followed on is that probably we have not done enough to keep on top of our laws of anticipating when there was labor or workers needed from outside the country to come into our country, and we haven't provided then maybe the workers that we need when there aren't enough Americans to fill various jobs. That could be laborers in the case of construction, it could be service workers in the case of hotels, it could be engineers, if we don't educate enough engineers. And probably those two regrets I have relate to how I feel about the present legislation before the Senate.

I have looked back at my vote for amnesty, and I have tried to recall as best I can 20 years back. But it seems to me that I was convinced at that time that if we had amnesty along with worker verification, along with sanctions against workers, which I think was set in the law with a \$10,000 fine, we would solve all of our illegal immigration problems.

Well, at that particular time, we did not predict and foresee the development of an industry of fraudulent

documentmaking, so that if I came to this country illegally and I went in to get a job and I showed a passport that looked like the real thing but was fraudulent, and the employer didn't see the difference and they hired me, then he was absolved of any responsibility for willfully hiring a person illegally in this country. And amnesty was supposed to work with that to legalize 1 million people who were illegally in the country at that particular time.

So looking back now 20 years, it seems as though we winked at abuse of the law, and it gives credibility to people who think they can avoid the law because there is never going to be a penalty for it. So what was a 1 million-person problem in 1986, today the number is up to a 12 million-person problem, people coming into this country illegally.

So I have some apologies to the people of this country because I made a judgment that amnesty in 1986 would solve our problems, and ignoring illegality, I find, has encouraged further illegality, and we have 12 million people now in the country illegally.

Then I wonder whether, now that I am 72 years old, 20 years down the road when my successor is in office will they be dealing with an illegal alien problem of 25 million. Another thing I learned from 1986 was that we allowed family members of people who were here illegally to then come to the head of the line, and instead of legalizing 1 million people, we probably made it possible for 3 million people to be in this country as opposed to waiting to come in under the normal process. Then, the other part of it, to repeat, is maybe if we had been a little more on top of the employment situation in the United States in recent years, we would have changed our laws so that more people could come legally to this country to work. Having learned from those lessons—obviously I have been burned once on the issue of amnesty—I am not sure I want to be burned twice on the issue of amnesty.

Of course, at this point, with 1 more week to go in the debate on this bill and many amendments, I don't know, there might be a bill I can vote for. But I don't think I am prepared to vote for amnesty again. I am not prepared to vote for amnesty again and then create a problem 20 years down the road for our successors to have yet a bigger problem.

I think we have learned in America that we are a nation of the rule of law and that we ought to enforce the law. I think we made a mistake by ignoring illegality in 1986 because it encouraged further illegality. It is a little bit like getting crime under control in New York City. When Mayor Giuliani first came into office, he decided that the way to get at big crime was not to allow the petty crime. He went to work concentrating on people who were abusing the law even in a minimal sense. Soon it made an impact that he was going to be tough on crime, and

pretty soon you found a great reduction in major crime. If we start enforcing our immigration laws and if at the same time we have a realistic law for people to legally come to this country, then maybe we will be able to get the sovereignty of our Nation to what it is supposed to be, and that is at least the controlling of our borders.

One of the things I wish to make clear is that there is a guest worker program used in place of amnesty. I understood previous speakers to say you can earn your way to legality, you can earn your way to citizenship. There are a lot of people who commit crimes who never get a chance to work their way out of that crime. It probably signals to people in other lands a softness of our concern about whether people come here obeying our laws and sends a signal that it is OK to disregard our laws. So a guest worker program that is used to cover up amnesty I can't buy into.

There are proposals connected with this bill to allow people to come here legally to work, to have a job and to have papers when they cross the border to come into our country to work. We are expanding some of those provisions for people to legally come to this country, and we are inviting people to come in as guest workers.

My belief is people would rather come to work legally than illegally. If we had a temporary worker program that was not a bureaucratic nightmare and people who wanted to work in America and had a job in America knew they could come here legally, they would choose the legal way to come as opposed to the illegal way to come. I believe if we had such a program that worked and was efficient and people could count on it, including employers counting on it, then pretty soon, one by one, we would have legal workers replacing illegal workers because surely employers would rather hire people who came here legally.

If we are going to have an amnesty program, it ought to be one about which people can at least say that it meets the commonsense test, that it is not a joke, that it is a real, serious effort to make people earn their way to citizenship. I want to point out some things in the present bill before the Senate that do not meet the laugh test, as far as amnesty is concerned.

The biggest flaw is providing legal status to 12 million people who are breaking our law by coming here illegally. Not only do we give amnesty to those who are here, but we give it to spouses and children in their home countries. In 1986, I voted for amnesty. I was burned once. I don't want to be burned twice. With a 1 million-people problem at that time, we actually ended up maybe with 3 million people coming here under the laws we passed at that time, particularly considering family. If it is 12 million people we are talking about now, and 3 times that, are we talking about 36 million people as opposed to 12 million people? Amnesty is giving a free ride to 12 million

people, and maybe 36 million people if you consider 3 for 1. That was the lesson we learned in 1986.

Let's look at the so-called earned legalization provisions. Proponents of the bill say that an alien has to pay their taxes, pay a fine, learn English, and get in the back of the line—the line leading to legalization, the line that eventually could lead to citizenship.

I respectfully disagree with my colleagues who say that they are earning their citizenship. I will go into detail about each of these provisions, starting with the \$2,000 fine. An illegal alien can go from illegal to legal just by paying a fine of \$2,000. That is chump change, particularly considering that the same people could have paid a smuggler five times that amount to get across the border in the first place. This is not a heavy fine for the law that they broke. People here illegally knowingly crossed our border and overstayed their visa each day. They get legal status overnight for a small price; \$2,000 is a small price to pay for citizenship, especially since they have been working in the country and making a living for over 5 years. This fine is nothing but a slap on the hand, and it doesn't fit the illegality involved.

The fine of \$2,000 isn't due right away. In other words, you don't have to pay it right away. For those in the amnesty program, what is called the first-tier program, aliens here illegally are supposed to pay a fine of \$2,000. However, the way the bill is written, many aliens here illegally may not have to pay that fine until year 8, 8 years from that point. The bill says that the \$2,000 fine has to be paid, in the words of the legislation, "prior to adjudication." What does that mean? The fine is not going to be required up front. If it is left the way it is, then the alien here illegally can live, work, and play in our country and is immune from deportation, all without paying any fine for maybe up to 8 years and all the time imposing a financial burden on local taxpayers for health, education, and infrastructure costs that are not reimbursed for 5 to 10 years.

Let's look at the requirement about learning English and civics. Under the bill, an illegal alien could fulfill the requirement of learning English history and U.S. Government by "pursuing a course of study." Until Senator INHOFE's amendment last week, the alien didn't have to show their understanding of English or civics, yet the authors of this legislation wanted us to believe that in order to get this legal status, you had to show proficiency in English and understand how our political system works. The Inhofe amendment took care of that, but it was certainly a low bar for people illegally in our country to meet.

On the issue of paying taxes: Under the bill, aliens illegally in our country only have to pay 3 of the last years in back taxes. Let me ask any taxpayer, wouldn't you like to have the choice of

only paying taxes on 3 out of any 5 years? But that is supposed to be a step toward earning your way to citizenship. Why, if any of us did that and fraud was involved, we would be in jail. At the very least, you would have to pay all your taxes for all those years and pay fines and penalties. But, no, people illegally in our country get an option. You don't get an option; my constituents don't get an option, what years they want to pay back taxes. We have a tax gap of \$345 billion in this country, taxes that the IRS is owed but that are not collected. Of course, this makes the problem even worse. This bill would treat tax law breakers better than the American people. Let's make the alien who is here illegally, who gets amnesty, pay all outstanding tax liabilities. That is the only way this bill—or at least the portion of this bill we call amnesty—can meet the commonsense test.

On the issue of payment of taxes and the burden that might cause for the IRS, that is another portion of this bill that doesn't meet the commonsense test. Under the bill, the Internal Revenue Service has to prove that an alien here illegally has paid their back taxes. Frankly, it will be impossible for the Internal Revenue Service to truly enforce this because the Agency cannot audit every single person in the country.

I am chairman of the Senate Finance Committee. We have jurisdiction over the Internal Revenue Service. I can tell you that the tax man is going to have a difficult time verifying whether an individual owes any taxes. Why aren't we putting the burden on the aliens? They need to go back and they need to figure out what they owe. That is what each one of us does every spring between January and April 15, before we file our taxes. We figure out how much we owe, and we have to pay what we owe. Then in turn let who is here illegally certify to the Internal Revenue Service that they have paid their dues.

I have an amendment to fix this language and allow the IRS to devise a system to make that work. But the end result for this chairman of the Finance Committee is that these people who are here illegally should not have a better tax posture toward the IRS than any other hard-working American man and woman.

Now I want to go to security clearances to be given in 90 days, another part of this bill that doesn't meet the commonsense test. The compromise would require the Department of Homeland Security to do a background check on aliens who are here illegally. In fact, this compromise has placed a time limit on our Federal agents. The bill encourages the Federal Government to complete the background checks on 10 million aliens who are here illegally within 90 days. Can you imagine that?

Can you imagine taking care of background checks on 10 million people in 90 days? That doesn't meet the com-

monsense test. It is unrealistic. It is not only unrealistic, it is impossible, and a huge burden, as you can see, and a huge expense. Homeland Security will surely try to hurry with those background checks. They will pressure Congress to rush them. There will be a lot of rubberstamping of applications despite possible gang participation, criminal activity, terrorist ties, or other violations of our laws.

I am not talking about the vast majority of people who are working in America and here illegally. I am talking about a small percentage of these people. But with that small percentage, we ought to be sure our national security concerns are taken care of, and, no, we should not be rushing these clearances through in 90 days.

When it comes to criminal activity, terrorist ties, other violations of the law, and gang participation, that is not true. I will bet that 99 percent of the people who are here illegally, who are working hard to improve their lot in life but still here illegally, violating our laws, want a better life. But a small group of them, we have to know that they are not a national security risk. And you can't do that in 90 days with 10 million people.

Let's talk about during the amnesty process and people having to go to the back of the line to work their way toward citizenship. The proponents say the aliens who are illegal would have to go to the back of the line so they are not getting ahead of those who use our legal channels. That whole approach, if you are going to have amnesty, is the way to do it. This doesn't meet the commonsense test, but someone has to explain to me actually how it works.

This is important because at my town meetings—I had 19 town meetings in Iowa during the Easter break—some of the most vociferous statements against amnesty were made by naturalized citizens who said: How come I had to go through all these things and stand in line for long periods of time to become a citizen or even be legally in this country and you are going to move all of these other people to the head of the line?

The theory is that they are going to take care of that criticism in this bill, but it isn't very practical. How is the Citizenship and Immigration Service going to keep track of these people? They can't even count right because they give out more visas than the law requires. Besides, an alien on an amnesty track is getting the benefits that people in their home countries waiting in line to come here legally can't get. This whole process denigrates the value of legal immigration.

While here, they get to travel, send their kids to school, open a business, and get health services. Is that really going to the back of the line?

The work requirements also don't meet the commonsense test. The bill says that an illegal alien has to prove that they have worked in the United States for 3 of the last 5 years. It also

says they have to work for 6 years after the date of enactment. However, there is no continuous work requirement through amnesty. So you could work 30 days on, 30 days off, 30 days on. It is dishonest to say these people are working the entire time.

Let's get to the evidence of that work history which the bill requires. It says a person illegally in the United States has to prove they have worked in the United States 3 of the last 5 years. How do you do that? They can show the IRS or Social Security Administration records or records maintained by Federal, State, and local governments. Their employer can attest that they have been working; their labor union or day labor center can attest, but that is not all. It might meet the commonsense test. But if you can't get records from the IRS or the labor union, you can ask anybody to attest that you have been employed. The bill doesn't even prohibit the alien to attest themselves. Anybody, including a friend, a neighbor, a man on the street, could sign the attestation.

This opens the door to fraud. The Government cannot realistically investigate them. Senator VITTER tightened this loophole, but sworn affidavits still exist. This is an issue of confidentiality in reporting. If an alien illegally in the country is applying for amnesty, the Federal Government cannot use information provided in the application by adjudication; that is, adjudicating that petition. If aliens illegally in the country write in their application that they are related to, let's say, Bin Laden, then our Government cannot use that information. In fact, it says that the Secretary of Homeland Security can only share that information if someone requests it in writing.

Why shouldn't the Secretary be required to provide that information to the CIA? If we can link an alien to a drug trafficking kingpin, then why shouldn't the application be a source of intelligence?

This provision severely handicaps our national security and criminal investigators, and again a provision in this bill that doesn't meet the commonsense test.

Let's look at the so-called \$10,000 fine for bureaucrats. Let's say a Federal agent uses the information I just spoke about by an alien in an application for amnesty. Under the bill, the agent would be fined \$10,000. Yes, fined five times more than the alien has to pay to get amnesty in the first place. That does not pass the commonsense test.

Let's look at qualifying for Social Security for aliens who are here illegally. The bill does not prohibit illegal aliens from getting credit for the money they put into the Social Security system if they worked in the United States illegally. Immigrants here illegally who paid Social Security taxes using a stolen Social Security number did not do so with the expectation that they would ever qualify for Social Security benefits. They paid

those taxes solely as a cost of doing their job. They never paid into the system with a reasonable expectation that they would receive any benefits. People who have broken the law should not be able to collect benefits based upon unlawful conduct. Their conduct has caused damage to countless numbers of American citizens and legal immigrants. Because of breaking our law, the victims are faced with Internal Revenue audits for unpaid taxes. Americans have trouble finding their own jobs and are left to reclaim the credit and clear up their personnel information. The Enzi amendment would have taken care of this, but it did not pass.

Our Members, again, gave up an opportunity of having this legislation meet another commonsense test. Employers get a criminal pardon for hiring illegal aliens under this bill. Not only does this bill legalize people who are here illegally, it is going to pardon employers who committed criminal activity in hiring illegal aliens in the first place.

The bill says employers of aliens applying for adjustment status "shall not be subject to civil or criminal tax liability relating directly to the employment of such aliens."

That means a business that hired illegal workers now gets off Scott-free from paying the taxes they should have paid. This encourages employers to violate our tax laws and not pay what they owe the Federal Government. Why should they get off the hook?

What damage are we doing, once again as we did in 1986, in ignoring the breaking of law, giving amnesty and encouraging further disregard for the law in the future?

In addition to not having to pay their taxes, employers are also off the hook for providing illegal aliens with records or evidence that they have worked in the United States. The employers are not subject to civil or criminal liability for having employed illegal aliens in the past or before enactment.

Then fines for failing to depart, for aliens illegally in this country—those in what the bill calls the second tier who have been here for a period of time, from 2 years to 5 years, they must depart and reenter. If an alien doesn't depart immediately, they face a fine of \$2,000. If they don't leave within 3 years, they get a \$3,000 fine. These fines are not incentives for aliens to leave. They could then live in the United States for up to 3 years without facing deportation. There is no requirement for them to leave immediately.

Take a look at that subtlety in this legislation. If you want to be satisfied with paying a \$3,000 fine, you can stay here an additional 3 years illegally, and we presumably know that you are here illegally.

The second-tier employment requirements—these illegal aliens also have to prove that they have been working in the United States since January 7, 2004. They can prove it by attesting to the Federal Government or an employer,

not necessarily the one that employed them. They can also get around the requirement by providing bank records, business records, sworn affidavits, or remittance records.

Since when does proof of sending money back to Mexico prove employment? That, too, doesn't meet the commonsense test and is another case where the legislation talks about mandatory departure. It really is not mandatory.

The bill says the Secretary of Homeland Security may grant deferred mandatory departure for aliens here illegally in the 2- to 5-year category. He may, the law says, also waive the departure requirement if it would create a substantial hardship for the alien to leave.

In this legislation, there is a waiver interview requirement. Illegal aliens in the second tier who are required to leave the country can reenter the United States on a visa, but the bill says they do not have to be interviewed. In fact, it doesn't even give discretion to our consular officers around the world to require an interview.

I have advocated for in-person interviews since 9/11, especially since the hijackers weren't subject to appear in person. Today, the State Department is requiring interviews for most applicants and waives them for certain people, particularly those over 60 years of age. If an adjudicator wants to have an interview before giving a person a visa, they should have the power to do it.

Guest workers, under the provisions of this compromise, can become permanent workers. Unlike almost all visas, the H-2C visa can be used as an avenue to legal permanent residence and citizenship. The H-2C visa was created as a temporary worker program. In fact, the alien, at the time of application, has to prove they did not plan to abandon their residence in the foreign country. However, the visa can be redeemed for legal permanent residence after only 1 year in the United States.

H-2C workers can self-petition under this compromise. No other visa program allows an alien to petition for himself or herself to go from temporary worker to seeking citizenship. After 4 years, the alien can sponsor themselves for permanent residence in the United States. We had an amendment to tighten this provision, but the self-petition measure is still in the bill.

Family members of H-2C visa holders need not be healthy. Under current law, aliens must prove they are admissible and meet certain health standards. Many times, visa applicants must have a medical exam to show they do not have communicable diseases. They have to be up to date on immunizations and cannot have mental disorders. Spouses and children of H-2C visa holders, however, are exempt from this requirement. I have an amendment to fix this provision.

The H-1B visa cap can increase automatically. The annual cap is increased from 65,000 to 115,000, but it contains an

additional built-in escalator. If the cap is reached in 1 year, it can be increased by 20 percent the next year. It cannot be decreased; it can only go up.

There will be no serious evaluation of the need for foreign workers, and Congress loses its control over importation of cheaper labor.

There are no strings attached in this bill to new student visas. The bill creates a new visa that lowers the bar for foreign students who wish to come here and study math, science, and engineering. They can work off campus while in school, thus taking American jobs. They also can easily adjust from a student to a U.S. worker. They do not have to prove they will return to their home country when applying for the visa. Why would a student come here to study anything if they could be approved instantly without the requirement of the old visa system? Have some people forgotten that the September 11 terrorists came on student visas?

Now the US-VISIT provision. Congress mandated in 1996 the entry-exit system known to us under the acronym of US-VISIT. This program was authorized 10 years ago. It is still not up and running.

The bill says Homeland Security has to give Congress a schedule for equipping all land border ports of entry and making the system interoperable with other screening systems. Why, oh why, aren't they getting this job done? Why does Congress give the agency more time to get this system running? It does not make sense for us to ask for another timeline; it seems sensible just to get it done.

In the final analysis, I am probably only 1 of 15 Senators still in this Senate since the 1986 immigration law was passed, but I was led to believe in 1986 that by voting for amnesty with employer sanctions, we would solve our illegal immigration problem. It just encouraged further illegal immigration. I quantify that by saying it was a 1 million-person problem in 1986. Today, it is a 12 million-person problem. And 20 years from now, if we do not do it right this time, it is going to be a 25 million-person problem. You get burned once, but you should not get burned twice or you have not learned anything. In the process, we ought to get it right this time. I don't think granting amnesty 20 years after we made the first mistake is the way to do it.

I yield the floor.

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

Mr. SESSIONS. Mr. President, I express my appreciation for the leadership of Senator GRASSLEY. He spoke from the heart. He was here during the 1986 amnesty debate. I happened to go back and I saw a summary of that debate. The Members argued on one side saying it was a one-time amnesty; others said amnesty begets amnesty, that if this occurs, there will be more to come. In truth, we see which side has prevailed.

Chairman GRASSLEY has given much insight and wisdom. I hope our Members will consider what he has to say. It is thoughtful, honest, and direct, as always.

I do remain troubled that the Senate is moving steadily, like a train down the tracks, to pass an immigration bill that is deeply flawed. It dramatically increases legal immigration and has no guarantee that significantly improved enforcement procedures will ever be carried out. In fact, the Senate rejected the Isakson amendment which would have conditioned amnesty on effective enforcement. Clearly, we have not comprehended the ramifications of rewarding those who have broken our laws with all the benefits we give to those who lawfully enter, thereby undermining, as Senator GRASSLEY said, the rule of law in this country.

Further, this legislation, which claims to be comprehensive, provides a radical increase in future legal immigration almost with no discussion or consideration of what is good policy for our future. In addition, the legislation has been crafted in a way that hides and conceals, even misrepresents, its real effects.

Thus, I have said it should never pass. I have said that these actions are unworthy of the great Senate of the United States. I have said, and I think correctly, we should be ashamed of ourselves.

What should we be doing? What should the Senate of the United States be doing? We should be working openly and diligently on these issues and should have been for some time. We should be seeking the input of experts and carefully studying relevant data. Certainly we should be consulting with those who have hired us—at least for a term—the American people.

In my view, the American people have been right from the beginning. They have rejected an immigration system that makes a mockery of law, a system that rewards illegal behavior, while placing unnecessary bureaucratic hurdles in the face of those who dutifully attempt to comply with the law. In the decades before the 1986 amnesty and after, they have urged and pleaded with the powers that be to end the illegality, to secure the border, and to develop a system based on the common-sense interests of our Nation. The American people have been arrogantly ignored by the executive branch and by the Congress.

We have failed to fulfill our responsibilities, in direct opposition to the legitimate and clearly stated will of the American people.

In every way, the American people have been correct. They have been motivated by the highest of American ideals, despite what the critics say. They have sought a lawful, wise system of immigration. It is unfair to ascribe to the good American people the words of some frustrated and extreme person whose anger overflows—the talk show callers and the like. That is not the

heart of the American people, just because someone mis-spoke on a talk show or in a conversation. What they are saying is legitimate, principled, and consistent with the American ideals. We have not responded to it. We did not respond to it before 1986. We did not respond to it in 1986. We have not responded to it since.

The American people will support a fair and generous immigration policy for the future, and they will support compassionate and fair treatment of people who have come here illegally. They are not asking that they be prosecuted, locked up, or that every one be hauled out of America. That is not so. No one is proposing that in any serious way.

Make no mistake, we cannot treat lightly and it is a grave step to concede, to admit, that the laws of the United States will be ignored and not enforced. During the 1986 amnesty debate, it was argued that amnesty would be a one-time event. People argued that if that were done, it would weaken the rule of law and encourage more people to enter the country illegally, confident that at some day in the future, amnesty would be available to them, too. I ask my colleagues, who was right 20 years ago?

Senator GRASSLEY just told us who was right. He said he believed it was a mistake when he voted for it. Not many Senators have the gumption to come to the Senate and admit they made a mistake. While amnesty just 20 years ago created a legal route to citizenship for 3 million people not here legally, today we are expecting, 20 years later, 11 million and perhaps 20 million people could benefit from this amnesty.

We must acknowledge that when you play around with the rule of law in a nation that expects to be treated seriously, you have done something quite significant. It cannot be altered or undermined without real consequences. Life has consequences. If you pass a law and then turn around and admit you cannot enforce it, with a promise that we are going to enforce it in the future and we are going to allow everyone who violated a law a free pass, what does that say about the future? These are not light matters. If we could do it like that, if we could make this kind of 180-degree turn without consequences, it would be one thing, but life is not that way. We are supposed to be a mature branch of Government of the greatest Nation on the face of the Earth. Surely we know that. Surely we know we cannot do this lightly. I am afraid some have not given enough thought to that.

I wanted to share those remarks at the beginning because we are dealing with huge numbers of people who will be legalized. We will be dealing with a fundamental expansion of immigration, a massive amnesty, large increases in governmental expenditures, and an enforcement promise I am not sure we will ever see occur because enforcement was promised in 1986. It was

faithfully and honestly guaranteed by supporters of that bill in 1986, and it was never accomplished.

I will introduce four amendments this afternoon. The four amendments are, first, a numerical limit amendment, an amendment to cap the immigration increases caused by this bill. The numbers CBO and the White House say we should expect include 7 million and their dependents under amnesty. Additionally, CBO and the White House estimate that under this bill 8 million new immigrants will flow into the country above the current level 10 million over the next 10 years. Got that? What my amendment will do is cap green cards at 7 million for amnesty, plus we are going to add 8 million to the current flow in the future.

We think the numbers are higher than that. But that is what the CBO says the numbers are. That is what the White House has trumpeted as the numbers. So at least, I suggest, this Senate should make clear those are the numbers, and let's pass it, so we will not have this danger that the bill will spin out of control or in fact will be much more generous to immigration than some are currently suggesting, even CBO.

Another amendment will be the earned-income tax credit. This would be an amendment to eliminate the earned-income tax credit for illegal aliens and those who have adjusted status under this bill. Once illegal aliens become citizens, they will once again be eligible for the earned-income tax credit. But it is a huge expense, maybe over \$20 billion over 20 years.

I will have an amendment to deal with chain migration which has to do with provisions that are continued in current law but are not principled and do not serve our Nation well. If we want to admit more skill-based immigrants, we must reduce the right of immigrants to bring in certain categories of relatives, regardless of skill, regardless of ability to perform.

We will work on those four amendments, and I hope we will be able to get a vote on them. I know people are saying: No, no, we need to move this bill on. We can't go another day. We have to finish this debate. You guys have had your little amendments. The train is moving. Get off the track. We are going forward. And I am already hearing that we are moving in that direction: The debate is going to be limited, and we will have to curtail our legitimate amendments.

I submit to you, the amendments I am offering here are legitimate amendments that go to real issues of national importance, not some technical thing.

My amendment that deals with the total number of immigrants into the United States comports with the estimates of the Congressional Budget Office which has run these numbers. I thought they were low, but that is what they say, and the White House has jumped right on it and said: These are the numbers, and SESSIONS and the

Heritage Foundation are all wrong. Their numbers are not good. These are good numbers, so let's just have a vote on it and let's make it law.

They estimate that a total of 7 million illegal aliens and their dependents will be granted status under the bill. Of the 11 million, they say 7 million will be granted status.

Additionally, the CBO and the White House estimate this bill will increase current immigration levels—which are now about 1 million a year legally—by about 8 million over a 10-year period, making total immigration into the United States over the next 10 years nearly 18 million instead of the currently expected 10 million, setting aside those who get amnesty.

Under various provisions of current law, the United States issues just under 1 million—approximately 950,000—green cards every year to people coming through immigration channels legally.

In 10 years, if this law remains the same as today, almost 10 million people will join the United States. Over 20 years, it would be about 18.9 million people—just under 20 million—under current law.

Under this bill that is on the floor today, we have been shocked to find the breadth of the numbers.

Almost 2 weeks ago, my staff and the Heritage Foundation did separate extensive analyses to determine the total number of people who would be coming into America under this bill, if it passes.

At a press conference last Monday—the first time anybody had even discussed it—Robert Rector, senior research fellow at the Heritage Foundation, joined with me to reveal the results of our studies and to shed some light on the future immigration policy changes in the bill.

According to my projections, the bill would have increased the legal immigration population by 78 million to 217 million over the course of the next 20 years. I would note, the current population of the United States today is less than 300 million. So 100 million would be a one-third increase in the population by immigration; 200 million, of course, would be two-thirds of an increase in the population.

Mr. Rector's estimate was within the range I projected—coming in at 100 million over the course of 20 years. I just tried to figure out what the low numbers could be and the high numbers could be. He focused on what he thought the number would turn out to be. He found it to be 103 million people over the next 20 years—one-third of the current population of the United States of America.

So the day after those numbers were released, the Senate adopted an amendment offered by Senator BINGAMAN—I see him on the floor today—which is, I think, perhaps, the most significant amendment we have adopted to date, that capped the number of people who could come into the country under that

bill's new H-2C temporary guest worker program at 200,000 per year, not 325,000. And it ended this 20-percent automatic escalator clause.

I say to Senator BINGAMAN, I thank you for your effectiveness on that amendment. And it ended up having a pretty nice vote. But until that time, we had not begun to discuss on the floor of the Senate anything other than enforcement at the border and amnesty provisions. We had not even thought about it. How did they put this in there? How did they come up with an automatic 20-percent increase in immigration for a low-skilled provision of this bill? Who wrote that in there? Did anybody even know it was there?

If my fine staff had not been digging into it, I am not sure it would have been found. Well, the Heritage Foundation also dug into it, but awfully late. The bill had been tried to be pushed through this Senate about a month ago without any debate, without any amendments. They were just going to move that through. So it was a good improvement.

We now expect, after this however, that the numbers are still huge. I project the expected numbers in the next 20 years will be between 73 million and 92 million. Robert Rector has estimated that it will be 66 million over the next 210 years. He didn't include H-1B in his calculations.

So without any growth in the H-1B, the high-skilled visa program, we come in at 73 million. Under the maximum growth, we would come in at 92 million. Current levels, under current law, would be 10 million. Now, that is a big, big deal. It represents a serious policy decision of the people of the United States. And how many American people know we are talking about that? And 92 million is over four times the current rate of immigration in this country—five times really. From where did that come?

So even after Senator BINGAMAN's effective amendment, it is important to remember that both the Heritage Foundation's—Mr. Robert Rector's—projections and mine calculate the bill will still increase current levels of immigration three- to fivefold over the next 20 years. The realistic estimate, I think, is four times the current rate. Is that what we need? Maybe it is. But we sure have not talked about it. Have you heard the American people consulted on that? We already have a pretty generous immigration system, I submit. It brings in a million people a year.

People say: Well, you have lots of illegal immigrants too. That would be 50 percent more, maybe 500,000 a year, as estimated. That is not three, four, five times the current rate.

Last Tuesday, the CBO released its final score of the Senate immigration bill. They estimated that if it passes, it would result in an 8 million person increase in the population over the first 10 years. The precise estimate is 7.8 million, which can be found on page 4 of the CBO score.

This estimated 8 million increase accounts for only future legal immigration caused by the bill. It does not include an estimate for the number of illegal aliens. We are not going to take that to zero, surely. Surely, we will make some progress to reduce illegal immigration, but it is not going to zero.

The CBO estimate for how many in the illegal alien population would benefit from the bill's amnesty provisions is contained in a separate calculation on page 22. On page 22, CBO estimates that 1 million illegal aliens will be adjusted under the AgJOBS provisions, and that two-thirds of the 6 million illegal aliens here for more than 5 years, and 50 percent of the 2 million illegal aliens here between 2 and 5 years, will adjust status under the bill's provisions.

So according to CBO, a total of 6 million illegal immigrants will become legal permanent—permanent—residents under the bill and be placed on an automatic path to citizenship.

Now, the White House, last Thursday, in a press release, entitled "Setting the Record Straight"—OK—wholeheartedly embraced the CBO report and claimed that the 8 million future immigration estimate by CBO is "consistent with most research on immigration issues."

The White House press release also embraced the CBO estimate on the current illegal alien population but stated it a little differently. According to the White House, CBO estimated that about one-third of illegal immigrants eligible for legalization under the bill are unlikely to become legal permanent residents. Therefore, the logical conclusion of this statement is that two-thirds of the eligible illegal alien population will likely become legal permanent residents.

The White House press statement directly implies that the White House does not expect more than two-thirds of the illegal alien population to become legal permanent residents under the bill.

If 10.3 million people have been illegally present for more than 2 years, two-thirds of that number would mean approximately 7 million people now living here illegally will benefit from the amnesty provisions. This estimate—7 million—is 1 million higher than the way CBO lays out the numbers on page 22 of their score.

As the press statement points out, these estimates are much lower than the estimates that Robert Rector or my staff, after extensive review, came up with.

Although I highly doubt we have true numbers from the CBO, I sincerely hope they are accurate, and not mine. It is imperative that the American people, however, be able to trust their Government—particularly those agencies that enforce these laws—when discussing issues such as these. My amendment will adopt the CBO and White House estimates as the realistic result of S. 2611's increases in immigration.

Under the amendment we are offering, the number of green cards that CBO and the White House estimate will be needed will be made available for the adjustment of status provisions and future immigration levels caused by the bill.

First, the amendment limits the number of green cards available under the bill's amnesty provisions to two-thirds of the qualified illegal alien population of about 10.3 million—a total of 7 million green cards.

Second, the amendment limits the increase in future immigration to 8 million above the current level of 10 million over 10 years. Under the amendment, the total number of green cards issued shall not exceed 18 million over any 10-year period, starting with the 2007–2016 10-year period.

Because real numbers of current immigration levels would only reach about 9,500,000 in 10 years, an additional 500,000 green cards are added to the White House's estimate in this amendment.

It is important that we limit the bill's effects to the numbers being used to justify the bill's passage, at least. The American people are much more accepting when they know the numbers we are asking them to believe in. And they are asking us to make sure we tell them truthfully, and that we comply with it. Though I am not in favor of granting amnesty to those who break the law, I believe it is important to hold the administration to its word when enacting a comprehensive reform bill.

My amendment limits the number of illegal aliens who can be granted amnesty under the bill. This limit will in turn limit the potential for fraudulent adjustments of status. It would also say if there were more claiming for green cards under amnesty than projected, and they met all the qualifications, they would get those green cards, but the future flow numbers would be reduced to cover that. Unlike the bill as written, my amendment would allow for a controlled increase in legal migration by placing a cap on the number of green cards that can be issued under the bill's other provisions. The fact is, we cannot admit everyone who wants to come to our country. Unlimited immigration will put a strain on finite resources. Therefore, in addition to properly enforcing our laws and securing our borders, we must put reasonable limits on the number of people who can enter permanently.

Under my amendment, future immigration will be increased by—hold your hat—80 percent, but not as much as the current bill allows, 300 to 500 percent. Eighty percent is too high. We haven't had the evidence to justify that, but I am saying, let's put this up for a vote so when this bill goes through here, we will at least know what the top level is.

This amendment is sensible and responsible. I ask my colleagues to vote for it. Later, I hope to have the oppor-

tunity in the debate—I see others, and I won't utilize any more time—to talk in more detail about the earned-income tax credit amendment, the need to reform in a significant way the unprincipled chain migration provisions of the bill, and the H-2C green cards future flow cap for H-2C green cards to be issued.

I thank my colleagues for their time. I urge each one of us to spend some serious time in analyzing the impact of this hugely important piece of legislation that the American people care about, and rightfully so. It is our responsibility to get it right. We don't want to be back here, as Senator GRASSLEY has done today, and say we have made a mistake in 2006.

I yield the floor.

The PRESIDING OFFICER. The distinguished majority whip.

Mr. McCONNELL. I ask unanimous consent to proceed as in morning business.

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

#### UNANIMOUS-CONSENT REQUEST— EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I rise today because five families in Harlan County in the Commonwealth of Kentucky suffered a devastating and tragic loss this past weekend. As many of our colleagues are aware, an explosion rocked the Kentucky Darby Mine No. 1 around 1:30 Saturday morning.

According to news reports, the blast occurred nearly a mile underground near a sealed-off area of the mine. The force of the explosion was so powerful it caused damage over 5,000 feet up at the mine opening.

Five miners were killed. Their families are, of course, completely devastated, and the entire community is struggling for answers in the face of such a catastrophe, an unexpected tragedy that is so overwhelming it breaks your heart and almost leaves you numb.

There is one ray of light in this otherwise very dark episode. One miner, a man named Paul Ledford of Dayhoit, KY, managed to escape the blast. He was injured but reportedly was still able to walk out of the mine on his own two feet. After a short stay in the hospital, he was released, and I am sure his family is thrilled that he survived the catastrophe.

The Darby mine explosion brings this year's total number of deaths from mining accidents in Kentucky to 10, double what it was just 72 hours ago. Thank goodness Paul Ledford's name is not on that list.

But these Kentuckians' names are: Paris Thomas, Jr., 53, of Closplint; George William Petra, 49, of Kenvir; Jimmy B. Lee, 33, of Wallins Creek; Amon "Cotton" Brock, 51, of Closplint; and Roy Middleton, 35, of Evarts. All were lost in this explosion Saturday.

The Harlan County coroner's report indicates that Amon Brock and Jimmy



Lee were killed instantly by the tremendous force of the explosion. The other three survived long enough to put on breathing devices, but still died of carbon monoxide poisoning.

Their loved ones will never forget the last time they saw them before they descended into the mines. Nor will they forget the calamity that, sadly, added their names to this list. Neither should we ever forget them.

The authorities are still investigating the cause of this accident. Some accidents are, unfortunately, entirely unpreventable. But other accidents are all the more horrific because they could have been prevented. When it comes to the second type, this Senate can and must act to prevent them. The list of Kentucky mining deaths is too long already.

I am sure my colleagues, Senator ROCKEFELLER and Senator BYRD, will agree that the list of West Virginia names is too long as well. Every American watched the terrible events at the Sago mine this past January, when 12 miners were killed.

The Senate should act quickly by passing S. 2803, the Mine Improvement and New Emergency Response Act of 2006, of which, I am happy to say, I am a cosponsor.

This measure, drafted by Senators ENZI and KENNEDY, was unanimously reported out of the HELP Committee last week, and the Senate should move expeditiously to pass this legislation. It is the most comprehensive package of miner-safety legislation in a generation. Once it is fully implemented, the brave men and women who descend in the darkness to provide the rest of us with light and heat will have safer working conditions than ever before.

The MINER Act, as it is called, will require mining companies to submit to the Mine Safety and Health Administration, MSHA, up-to-date emergency preparedness and response plans. The plans must be adapted to each individual mine, and MSHA must review and recertify them every 6 months. As conditions change, so must the response plans in order to best protect our miners.

The bill will require the mining companies to put in place state-of-the-art, two-way wireless communications and electronic tracking systems. Mine rescue team response will be both faster and safer.

The bill will require every miner to have at least 2 hours of oxygen on hand and stores of oxygen to be stashed every 30 minutes along escape routes for evacuating miners. Randal McCloy, Jr., the only miner who survived the Sago tragedy, has reported that at least four of his fellow miners' air packs were faulty, leaving the team without enough air.

Given the fact that three of the miners in the Darby mine died with their breathing masks on, it seems the same thing happened yet again in Kentucky this weekend. That is unacceptable and must not be tolerated.

The bill will give the Secretary of Labor new, stronger enforcement powers to ensure the mines are in compliance. The Secretary will have the authority to shut down a mine for failing to meet the Department's orders, and the bill raises penalties significantly for serious violations.

The bill will also clarify that mine safety rescue teams are not liable for any injuries or deaths that may happen due to rescue activities. This is important because up to now, some mining companies have hesitated to have mine rescue teams for fear of being sued. This provision of the bill will ensure the mining companies have the incentive to put a mine rescue team in place.

Finally, the bill will create grant programs to improve safety training, direct studies of safety techniques, and create an interagency group to facilitate the development of new safety technologies and activities.

I understand this may not be the perfect bill. Not everyone has gotten everything in it they want. But it represents the best, most comprehensive approach to this problem in many years. In fact, both the National Mining Association and the United Mine Workers of America have endorsed it. That ought to tell you something right there. These two groups don't agree on things very often, so I am sure my colleagues can see how their agreement is a signal that the MINER Act is the breakthrough that we have been waiting for.

It is too late for us to do anything for the five Kentucky miners who died this Saturday. Right now the healing for their families and that community is happening in Harlan County. I was touched by an article I read today about a memorial service that took place at the Closplint Church of God in Closplint, KY, just 10 miles down the road from the Darby mine. The Rev. Frank Howard led a prayer for the victims' families. He said, "We're a coal community, and we need to lift each other up."

I know the people of Harlan County well. And I am sure of this: They certainly do have the strength to lift each other up in this hour of anguish. And when they need help, they will get it. It will pour in from every corner of Kentucky and beyond.

So we here in the Nation's Capital must also do our part. When this Government acts swiftly and with purpose, we can uplift the fortunes of many who may otherwise be cursed to suffer in despair. By passing this legislation, we can lessen the burden on others who work in the mines and their families by letting them know that we are listening and doing everything we can.

It is my understanding that efforts are underway on both sides to get this legislation cleared, we hope, as soon as tomorrow. But there is one other thing we ought to do. I was looking at the Executive Calendar. I noticed that the MSHA, the Mine Safety and Health Ad-

ministration, is without a Director, and not because the HELP Committee has not acted. On March 8, 2006, the HELP Committee reported out an individual from West Virginia to be Director of the Mine Safety and Health Administration. His nomination has been languishing on the calendar for 2½ months. I can't think of a worse time to have MSHA without a permanent Director than now. We have had a raft of coal mine deaths this year in West Virginia and Kentucky. With coal production up and coal prices up, it is a virtual certainty that more and more coal is going to be mined. Therefore, more and more miners will be involved in mining coal. We need a permanent Director of MSHA, and we need to pass the legislation I hope we will pass tomorrow.

I know there has been a hold on the MSHA Director nomination on the other side of the aisle. I have been told that there will be an objection yet again today. But I want to plead with those from the other side who may believe that this is not the perfect nominee—he is the nominee, nominated by the President, reported out of the HELP Committee. If he were to be drawn down and this whole process were to be started all over again, we wouldn't have an MSHA Director for months and months into the future. We need a permanent Director of the Mine Safety and Health Administration.

Bearing that in mind, I ask unanimous consent that the Senate now proceed to executive session for the consideration of Calendar No. 553, the nomination of Richard Stickler of West Virginia to be the Assistant Secretary of Labor for Mine Safety and Health; provided further that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

Before the Chair rules, as I have indicated already, let me say again, this nominee has been reported out of the HELP Committee. He has been on the calendar since March 8 of this year. MSHA is without a permanent Director, and I would hope that my unanimous consent request will not be objected to.

THE PRESIDING OFFICER. Is there objection?

Mr. BINGAMAN. Mr. President, on behalf of the Democratic leader, I have been requested to object, and I do object.

THE PRESIDING OFFICER. Objection is heard.

Mr. SESSIONS. Mr. President, if the Senator from Kentucky will yield for a question, just a few years ago, not long after 9/11, we had the Brookwood mine disaster in Alabama, where 13 miners lost their lives. Basically, like the firemen in New York, they were responding to help someone in need, another miner that they believed needed help in an emergency, and lost their lives in a rescue attempt. It was a very emotional time for me and the families and

the town. We were joined on that occasion at the Brookwood mine area by the Secretary of Labor, Elaine Chao. I want you to know how proud I was of her that night. She went over to the union hall.

She had to be up at 5 o'clock the next morning to catch a flight. But she stayed there almost 2 hours meeting and talking with the victims of that disaster. I was able to call just Friday several family members and others who were involved in that to tell them of the passage of this piece of legislation out of committee. They were very excited about it—a lawyer for the union official, families of people who were killed in that disaster. As the Senator said, the price of coal is up. The demand for energy is up. We are going to be doing more mining. This legislation will clearly be a step forward into making those mines safer. I thank him for those comments. I hope we can move rapidly.

Mr. McCONNELL. Mr. President, before yielding the floor, I thank my friend from Alabama. I hope this legislation will clear the Senate sometime tomorrow. I know people are working on both sides of the aisle to get it cleared. It should not be controversial. After all, it came out of committee unanimously. It is supported by the National Mining Association and the UMW. We need to get that bill passed.

I hope, also, we can get a permanent Director of MSHA. It is without a permanent Director at a very important time in the life and safety of our Nation's coal miners.

Mr. SESSIONS. Mr. President, I certainly agree with that. I just ask that when the Senator gets home tonight, he thank the Secretary of Labor for the good work she has given to the committee in helping us pass this legislation.

Mr. McCONNELL. Mr. President, I yield the floor.

#### COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006—Continued

The PRESIDING OFFICER (Mr. CHAMBLISS.) The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I want to speak briefly this afternoon about two amendments that I intend to offer, and I hope can be favorably considered by the Senate before this bill is completed. The first will just take a moment. It relates to forestry workers.

This is amendment No. 4055. It would make H-2B guest workers who are invited here to work in our forestry sector eligible for limited legal aid. I believe this amendment should be non-controversial. Under current law, agricultural guest workers are eligible for legal aid with respect to employment rights provided for in their H-2A contract. This amendment would provide H-2B forestry workers with the same eligibility for legal aid. We have had hearings in our Energy Committee on the issue. We had a recent hearing

where we heard that making H-2B forestry workers eligible for legal aid is the single most effective thing Congress could do to address the problem of exploitation of forestry workers.

These guest workers have been asked to come to the United States because of a labor shortage that was certified by our Government. They are here legally. They pay U.S. taxes. Currently, the law prohibits legal-services-funded organizations from providing them with any legal aid to enforce their rights under their guest worker contract. The amendment would correct this issue, and I hope that this amendment can be adopted when it is appropriate to take action on it.

Mr. President, I also want to talk about another amendment which goes to the issue of the number of employment-based immigrant visas admitted each year—the number of employment-based immigrants that we admit each year under the current version of this immigration bill as it stands in the Senate today. Let me first describe the big picture as I see it, as far as people becoming legal permanent residents under our laws.

First, let me preface this entire discussion by saying that none of what I am talking about relates to the people who are here on an undocumented basis today. There are other provisions of the law that apply to them and that give them rights under this proposed legislation to adjust their status and become legal permanent residents at some stage down the road. So that is separate. I am not in any way talking about that. I know that has been a subject of great controversy in the Senate and in the Congress in general, but that is not the purpose of my proposed amendment.

When you talk about people who are not here illegally today, there are basically two major ways that a person can become a legal permanent resident under our immigration laws. The two ways are through the family-based visa program or through the employment-based visa program. This chart shows the numbers that have been admitted into the country up until the end of 2004 through the family-based and employment-based programs combined, under both of those. You can see that those two together—it comes out to somewhere around 800,000. That is a total annual figure I am talking about for people coming and getting legal permanent residency through both of those major avenues.

Now, this legislation we are talking about would, according to the Congressional Research Service, substantially increase those numbers. You can see that their projection—and this is an estimate because, in fact, we are eliminating some caps that have been in the law previously, and I will discuss that in a minute. But these estimates from the Congressional Research Service are that we will get closer to 2 million legal permanent residents that we are accepting each year under this legislation. So that is the overall picture.

The amendment I am talking about does not try to deal with this entire picture. It just looks at the employment-based legal permanent resident visas.

Let me go to a different chart in order to describe the concern I have. Current law says there is a cap of 140,000 persons, or 140,000 visas, that can be issued under the employment-based LPR categories of our laws. That has been the case now for some time—140,000 per year. This includes family. These are people who come here and seek legal permanent status in order to take work. But it also includes their families. Each member of the family, of course, uses a visa as well. So the total number of employees under this system, and family, spouse, and children, does not exceed 140,000. That is what the law currently provides.

Now, when Senators McCain and Kennedy—this is my understanding of the history, and I am sorry that neither Senators McCain or Kennedy are here so they could correct me in case I misstated anything, but my understanding is that they concluded that we needed to reform the law, and part of the reform that we should adopt was to clear out the backlog and make more room for additional immigration under this employment-based LPR system. I agree with that. Clearly, that is one of the purposes of this legislation and one of the effects of this legislation.

They set out to do this in several different ways. Let me mention the three main ways that they set out to do it. First of all, they said let's clear out the backlog. By that, it is meant in the legislation that any visa that was available to be issued in the last 5 years that was not issued because the immigration service could not get the processing done—that any of those visas would be once again made available. And the estimate we have from the Congressional Research Service is that there are about 140,000 of those.

So we are going back for the last 5 years and saying: OK, are there visas that should have been or could have been issued? Let's bring those forward and issue them and make them available again. Clearly, I support doing that.

They also said: OK, in order to help clear out the backlog, we need to encourage some groups to come here and exempt them from any of this cap. This idea that we only allow 140,000 people to come should not apply to people we are particularly interested in bringing to this country, for whatever reason. One idea is to allow students who come here to be exempted from the cap so they can remain here and become legal permanent residents—scientists, technicians, engineers, people with careers in mathematics. We need those people to create a strong economy. Let's allow them to come.

They said also let's eliminate some of these schedule A groups; that is, people who have specialty occupations we

need to bring here. So let's take them out from under the cap. Again, I have no problem with that approach.

The one other thing they said, which is a major change in the law—this was the bill they introduced last May, the McCain-Kennedy legislation—is that we should raise the cap, that we have outgrown that. Let's raise it to 290,000, so the total number of people who are being allowed to come each year—employees and their spouses and children—will be 290,000, in addition to the ones permitted to come because of our bringing these visas forward from previous years and in addition to the people who come not subject to any cap at all.

That is how the McCain-Kennedy legislation was introduced. Frankly, my own reaction was that it sounded like a fairly reasonable approach. Then the Judiciary Committee decided to proceed with legislation, and the Judiciary Committee began to mark up the chairman's bill—Senator SPECTER's bill—and as I understand what occurred there, and in reading the record of those hearings, the Specter bill agreed with the effort to clear out the backlog that I have described, agreed with the effort to exempt certain groups from the 290,000-person cap. It agreed to keep the number 290,000, but they changed the definition of what the 290,000 applied to.

Under McCain-Kennedy, it had been a cap on the number of workers, along with their accompanying family members. Under the Specter legislation, it was defined as a cap on the workers themselves, and there was to be no cap on the spouses and family members.

If you look at this chart, you can see the progression. Current law is the first column. The second column is S. 1033, which takes it up to 290,000. Then the third column is the one that is the chairman's mark that was marked up and reported by the Judiciary Committee, and that is the one that keeps the 290,000 but says: OK, on top of that we are going to allow spouses and family members.

On this chart, you see an estimated 638,000. The reason I put that in is because the Congressional Research Service was asked how many spouses and family members they expect to come along with these people? They said, looking back at past history, they estimate perhaps at least 1.2 people per employee. So you would be talking about 638,000, roughly, under that legislation. But that is an estimate. This is the first time we have not had a cap. We have an estimate instead of a cap. So the obvious question we have to deal with is whether that is the right level.

As we all know, the legislation that came through the Judiciary Committee was changed once it got to the floor, and we then began to work on what is called the Hagel-Martinez legislation. That is the legislation pending today. That is the legislation about which we are having a great deal of discussion.

Let me recount what the Hagel-Martinez legislation does. That is the fourth of these columns. The Hagel-Martinez legislation says that we agree with the proposal to clear out the backlog, just as McCain-Kennedy did. They are saying they agree with the proposal to exempt certain categories from the cap. That was also in the McCain-Kennedy proposal. And they agree with the Specter proposal that the definition of who should be covered should not include spouses and family members. But they also believed the 290,000 was too low a figure, and they raised it to 450,000. What we have now is 450,000 workers permitted to come and no limit on the number of spouses and family members who can accompany them. That is the legislation pending before us. That continues under the bill, as it is before us, for a 10-year period, through 2016. After 2016, for the period from then on, it drops back to 290,000, plus their spouses and family members, rather than the 450,000.

Why did Hagel-Martinez insist upon going to this 450,000 instead of 290,000? That is the obvious question. They did it for a very logical reason. They did it because they were providing that a certain group of those who are currently in the country—that is, people who have been here at least 2 years and fewer than 5 years—that group of individuals would have to go through this same system, so they had to increase the amount of that cap as they saw it.

What I am suggesting we ought to do first and what my amendment will propose, once I have the opportunity to offer my amendment, is we should put a cap on the total number of people we are allowing into the country under this employment-based legal permanent residency visa program.

We have always had a cap on the number of immigrants coming into this country on an employment-based system. We have done that now for well over half a century. I think we have done it for over a century. I think it would be a fairly radical change for us to say we are giving up on having any cap on this group and instead we are going to an open-ended system, and we will work on estimates.

Part of the debate we have had in the Senate, frankly, is the result of the fact that we don't have a hard cap for how many people will actually be admitted each year. I believe that is not good public policy. It is not fair to the Immigration Service, which has to plan for the number of employees they will need and the number of applications they will receive each year. We are much better off having a cap.

I also believe we should make it clear that whatever cap we have on this group excludes those aliens who are adjusting their status because they have been here from 2 to 5 years. If they are in that category, they should not be counted in the numbers we calculate.

My amendment would try to exclude that group and would basically other-

wise take the numbers that are estimated by the Congressional Research Service and say: OK, let's go ahead and put a cap, and let's make it a 650,000-person cap each year. That is slightly more than the Congressional Research Service estimated would be required or would be expected to apply. It is a substantial increase over current law, more than four times, nearly five times the current level. It is substantially more than twice what Senators McCAIN and KENNEDY proposed in their legislation.

I think, frankly, it would be a major liberalization of our laws. I know there are those who will argue that we shouldn't have any cap at all, but I think that is not a wise course. This legislation will be improved if we can assure our constituents that we have a cap on the number of people who are coming in under this employment-based system. That is what the amendment will do.

I hope to be able to explain it further when we get closer to actually offering the amendment. I am told we cannot offer an amendment today. This would be a very useful change and improvement in the pending legislation.

I hope my colleagues will take the time to look at this issue and will educate themselves on what the effect of the current proposed legislation would be and the reasons we should put some cap on that number. I believe it would be a wise course to follow.

Mr. President, I yield the floor.

THE PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I compliment the Senator from New Mexico. He has approached this very contentious and very complicated issue in a very thoughtful way, looking at realities and numbers. I appreciate his observations today. His proposal, and an amendment he offered that was adopted last week, changes the numbers. I am not going to stand here on the floor as an advocate of the legislation and suggest we have gotten it right, but we spent a great deal of time attempting to get it right, recognizing the importance of the migrant labor force inside the American economy and, at the same time, recognizing the wishes of the American people to make it a transparent legal process with secured borders. That is what they are asking of us. I hope, as we finalize this legislation this week, that is the outcome of it before we send the bill to the President for his signature.

I have come to the Chamber this afternoon to talk once again about an issue that is before us. The Presiding Officer is the author of the amendment. Again, it is one that, in part, is a bit technical. I suggest this afternoon in my opposition to the amendment that it is predicated on what I hope are appropriately the unforeseen consequences of this amendment and the impact it would have on American agricultural employment.

Last Thursday night, Senator CHAMBLISS opened the debate on his

amendment, and I talked about its impact on the users of the H-2A agricultural guest worker program. To get right to the bottom line, my argument is that the Senate should keep the provision that is in the bill now and deny Senator CHAMBLISS the success of his amendment. Why? A deal doesn't necessarily have to be a deal, but at the same time, over the course of the last 4 years, in negotiating with agricultural employees and agricultural employers, we attempted to bring some rationale to a method of compensation under the H-2A program that simply in most opinions was out of touch with reality. It was escalating on an automatic basis every year, and it simply was not fitting the need, especially when more and more in agriculture were illegal and were not under that program.

Now a small minority actually, some 40,000-plus a year, are under the H-2A program and identified with the wage set by that program. It is possible—and we are not sure—but a million-plus are not and are simply out there in the marketplace bidding for a salary that, in most instances, is below the H-2A adverse wage that is proposed.

So what did we do? Recognizing that disparity, we reached back, with the agreement of all of the parties involved, and said that one of the pieces of getting this puzzle right was to freeze that wage in 2003 at the 2002 level, and that is what is in the bill. So that pushes that wage scale back substantially for a period of 3 years while we look at what Senator CHAMBLISS has attempted to do in his legislation in developing a prevailing wage for American agricultural employers and employees that fit into this guest worker category.

I don't know that we, with all of the different categories of wages, can automatically put it all under one at this time. Of course, that is what the Senator attempts to do. The agriculture section of S. 2611, as I said, immediately drops that wage down, and then over a period of 3 years, we look at it and adjust as the program is adjusting because we are not going to have everybody inside the program once it becomes law for a period of several years as the program adjusts and as we work our way through and people begin to qualify under the blue card system that we proposed to become legal workers and have permanent visas for the purpose of moving back and forth across the border as guest workers to work in American agriculture.

What I have attempted to do and what I am attempting to understand is what in the bill is now the best deal for American agriculture. That is one reason I believe a vote on the Chambliss amendment is not a good deal for American agriculture at this moment. But that is not the only reason. Let me talk about the rest of agriculture, the million-plus who will now be affected by the Chambliss amendment if it is to become law, because I see that as the

rest of the story, and the rest of the story deals with the blue card and the blue card transitional program, the earned status which is a part of the whole of this program. It isn't just a matter of putting in a wage; it is a matter of how that wage ultimately affects the transition into a blue card status.

We have done a pictorial chart tonight that I think better explains what we are talking about.

We believe the blue card built within the agricultural jobs is that transitional tool which allows American agriculture to cross the chasm, if you will, and allow a reformed H-2A program, a guest worker program, to come into being. It won't happen overnight, but it will happen under the law, and it will happen with a wage scale that is pushed back as we make sure we get it right. That is under the reform program.

The second part of the agricultural jobs is a one-time-only program, right here, a blue card. It will last for a specific period of time while we are transitioning the illegals here today into a legal status so they can continue to work and move back and forth across the border in a guest worker program.

The blue card program is a critical piece of the agricultural job solution. It is an essential transition program. Let me repeat, agriculture needs this blue card if we don't want to throw it immediately into havoc because agriculture, whether we like it or not, based on an H-2A law that didn't work at all well and a very transparent border, has grown increasingly dependent on an illegal workforce. There are no wage requirements for blue card workers in the bill. It is only the 40,000-plus H-2A we shove back. They are paid whatever the farmer is paying, whatever the current wage is in the area, and other workers are gaining. And those wages would differ from place to place and job to job, farm to farm.

What the Chambliss amendment does, however, is it says that blue card workers must be paid a prevailing wage. It pushes the base up substantially. The Chambliss amendment doesn't just deal with the wages of the H-2A program, the 40-plus, it applies the same fix to every farmer who employs a blue card transitional worker.

Now, why is that significant? Here is why: By definition, the prevailing wage is neither the lowest nor the highest wage; it is just about in the middle or between the two. It is the 51st percentile in wages. So even if a farmer is paying a lower wage for a particular job, if he hires a blue card worker, if the Chambliss amendment becomes law, he is going to have to pay the blue card worker a higher wage than he is currently paying today. And if the Chambliss amendment is adopted, the lower 50th percentile of wages, that is the figure that becomes the calculating base for the next year. While you freeze for 3 years and let the wage scale work

as it is, the Chambliss amendment begins to ratchet the wages up, setting them at a 51st percentile level. I don't think American agriculture has that one figured out yet.

What could ultimately happen is that we lose the value of the transition of the blue card, especially when it comes to vegetable crops and crops that can move very quickly out of this country that aren't mechanized and are labor intensive. Already, we are beginning to lose those farmers because the worker isn't there. If all of a sudden that wage scale shoots up under the Chambliss bill, as I propose it will, to a prevailing status, my guess is not only will you not have the worker but you will not have the producer out there in the field simply because they will not be able to afford to pay that wage in a competitive way. More and more of our production, tragically enough, I believe will go south of the border in some of these areas. Much of that production today happens outside the United States.

So I think when we are talking about what sounds like a good idea, we better put it in the context of what the bill is really about; that is, the transitional time of 2 to 3 years of blue card workers who are in the market today working at a variety of wages, depending upon the particular job, the particular type of agriculture, and all of a sudden establishing a whole new wage base substantially above where they are being paid but, as the Senator from Georgia would argue, below H-2A. But remember, once again, only about 45,000 workers are in H-2A, and there are well over a million who are all of a sudden going to be affected by the blue card status and by the Chambliss amendment. So it is tremendously important that we bring this into context.

Now, that is not going to be just a couple of workers, as I said. That is nearly 70 percent of the current agricultural workforce we believe to be undocumented. Not all of those workers are going to qualify for the blue card program, but a lot of them will. Our blue card program envisions that it could go as high as, over a 3-year period, 1.5 million, and if I am not mistaken, those higher wages won't be limited to the blue card worker.

But what the Senator from Georgia is doing is setting a new, higher floor for all agricultural employment. Somehow, you are talking about inflating the wages of a large percentage of the American agricultural workforce. I am not against higher salaries. I am for a fair salary. What I am concerned about in particular is labor-intense areas, and those crops will simply cease to exist and they will go south of the border, to Chile or somewhere else. In areas of agriculture that are highly mechanized, there will be limited to no effect. And it is that which I believe we have to put into context.

So what is the result? The result is that employers, in my opinion, won't be able to afford blue card workers. Is

that the intent of the Senator from Georgia? I don't think so, but I believe it is the unintended consequence we are talking about and something I think my colleagues need to understand.

Part of that was the discussion over the last 4 years. This is something which didn't just come up yesterday. There were 4 years of negotiation between the employer and the employees as to how to get an H-2A wage right. We had the adverse wage for a lot of reasons, such as because of where agriculture was located and because housing wasn't available. There were a lot of things that were brought into that discussion. We know our country has changed since the creation of the first H-2A law. And while there are still other benefits tied to the wage, that is why we could effectively negotiate rolling that wage back and allowing American agriculture and the employers in American agriculture to effectively look at what we were doing and strike the kind of balanced margin that is necessary.

What happens? What happens if the blue card is removed? I am going to argue tonight that the Chambliss amendment has the effect of removing the blue card substantially because it inflates that lower wage base significantly. What happens if it is removed? The bridge that is the chasm we cross as we transition with American agriculture into a legal—a legal—guest worker program goes away. That is what I am worried about, dramatically worried about, and that is why I am urging my colleagues to vote against the Chambliss amendment because I think if that goes away, there is no transition. Within a very short time, even under tight labor conditions today, because our borders are getting tighter and because of shifts in the workforce, this drives that workforce even further out of the ability to be hired by much of American agriculture. I think it is tremendously important that we look at all of that and understand it.

Here is something else that is ironic. The Chambliss amendment creates a federally mandated wage base for American agriculture. Some will argue that we have done it in a couple of other areas, but most of us will say the market ought to work. It was only in the unique status of H-2A that we had a different kind of wage base. I will argue today, and I think appropriately so, that we are setting an entirely new standard for 70 percent of the American workforce. Instead of allowing us to make sure that it fits right in the program, looks at the diversity, looks at the kind of representation that is reflected all over the United States when it relates to where you are working, how you are working, the type of work you are doing—is it piecework, are you doing it by the amount produced instead of by the hour of work—all of that kind of thing works today, and I am not so sure it is not effectively dis-

torted by the proposal which is being offered by the Senator from Georgia.

That is why I hope my colleagues would stay with us and stay with what is in the bill and in the provision that we call AgJOBS, that rolls back—on 40,000-plus workers qualified under the H-2A program, rolls their wage back to the 2002 level, freezes it for 3 years, while the Department of Labor, working with American agriculture, can get this right because I am convinced that the unintended consequences of now mandating a Federal floor, if you will, to American agriculture is not where we want to go.

If we want American agriculture to transition across this chasm, to get its workforce legalized, as it wants and as the Senator from Georgia and I want, then we have to make sure the transition which allows that to happen effectively uses this tool, the blue card, which will allow that kind of transition to go forward in a way that causes us to adjust.

We can't take the blue card off the table. I will argue that in the end, if the Chambliss amendment passes, we have taken that worker out of the workforce. That is not going to be good for American agriculture. That is not going to be good for the crops that are rotting in the fields today if, by that action, we now have a Federally mandated prevailing wage which brings that wage rate up across the board in a way that disallows American agriculture from being competitive.

I believe those are the critical points involved in the difference between where we are and where we know we need to get. We need to get there in a way that allows the worker to be treated fairly, the producer to be treated fairly, and most importantly that we have an available, legal workforce to meet the needs of American production agriculture. That workforce is at risk today, and with the passage of the Chambliss amendment, significantly changing the base rate, it will be at even greater risk as production agriculture looks where it needs to farm to be competitive in a world market. It may not be on the soil of this great country, and that would be the wrong thing for us, the wrong thing for our country, and certainly for our consumers. So I hope my colleagues will look at that and consider it as we deal with this issue.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Georgia is recognized.

Mr. HARKIN. Parliamentary inquiry, Mr. President.

Mr. CHAMBLISS. I am happy to yield to the Senator from Iowa.

Mr. HARKIN. Mr. President, my inquiry is, is the Senate under a unanimous consent agreement that it would go from one side to the other in this debate or is it just jump ball? It is just whoever gets recognized by the Chair to speak?

The PRESIDING OFFICER. That is correct.

Mr. HARKIN. I thank the Presiding Officer.

Mr. CHAMBLISS. Mr. President, I appreciate very much the arguments made by the Senator from Idaho, but there are a couple of very obvious faults in the argument relative to the wages farmers should pay to the folks who work for them.

First of all, the adverse effect wage rate, which is in the current law and is in the current bill, and is supported by Senator CRAIG, is the only provision in the labor laws of this land that uses the adverse effect wage rate, and we both recognize that this is a flawed system. By his own admission, the Senator from Idaho recognized it, and I recognize it. It is a flawed system because it was never intended to be used by the Department of Labor as a means by which wages would be set. So my response to that is, let's take what all other labor laws utilize in determining wages, and that is a prevailing wage.

You come up with a method whereby the skills that are attached to the individual laborer, the location where that laborer is going to work, and the type of job for which that person is to be hired determine how much that person is going to be paid. What happens now is there is simply a rollback in the current bill of the adverse effect wage rate to the year 2002. That is 4 years ago. And by rolling it back 4 years, there is an admission that there is a significant problem there.

I don't want to misquote my friend from Idaho, but the other night, Thursday night, when we were arguing about this on the floor—I might add, in a way that moves both of us to the same conclusion, which is to make sure we provide that quality workforce—the Senator from Idaho said that at the end of the day, what he wants to get is a prevailing wage. I am going to talk about that again in a minute. But if we want to get to a prevailing wage, let's get to it now.

Mr. CRAIG. Would the Senator yield?

Mr. CHAMBLISS. I am happy to yield.

Mr. CRAIG. Mr. President, I don't think he and I disagree. My concern is you are affecting 1.5 million workers by your immediate action, and I am affecting 40,000-plus in rolling them back. And we are giving a period of transition of 3 years to get right what you have proposed. My concern is that in getting right what you proposed, you have an immediate effect on the next phase of agricultural jobs, and that is the transitional period of time in qualifying the blue card worker to become a permanent worker or a permanent legal worker, and that immediately inflates the wage base. And then immediately upon inflating it once, you inflate it again the next year and the next year because you have lifted the base, ratcheted it up by each year's calculation. I think that is a very legitimate concern. So I ask you, is that not the impact of what you do? I am affecting 40,000-plus; you are affecting 1.5 million.

Mr. CHAMBLISS. I reclaim my time, Mr. President.

Here is the deal. The deal today is that a farmer in America, wherever he may be, whether he is in Idaho or Georgia, who goes out and hires workers to come here legally, pays the adverse effect wage rate. In my State, that happens to be about \$8.37 an hour right now. In addition to that, they pay for their transportation, they pay for all their consular fees, they provide housing, so the \$8.37 an hour is a little bit misleading. It is actually more in benefits than that. The neighbor next door to that farmer, which is that category of blue card worker that you address in your comments, he is paying probably \$5.15 an hour to that individual. So the farmer who is trying to be legal is paying a fair wage rate, or paying a wage rate with benefits that is significantly different than the gentleman that he is competing with on the farm next door.

What the proposed legislation does is continue that difference. It takes those individuals who are here illegally today and says we are not going to guarantee them the adverse effect wage rate or the prevailing wage rate. We are going to continue to treat them as a second class citizen, and we are going to allow farmers who use them to have an advantage over farmers who use legal workers.

All my amendment says is that everybody ought to use legal workers. We ought to give farmers across America the opportunity to choose from a pool of workers to plant, tend, and harvest their crops. During the whole course of the time that they are here in a legal manner, working under that contract, before they have to go home, we want to make sure they are paid a fair wage. That wage is determined as the prevailing wage rate by the Department of Labor, and it is based, again, on the skill of that worker, on the job for which that worker is hired, and on the wages that are prevailing in the area in which that worker is hired. That is exactly what my amendment does.

We don't eliminate the blue card. You still have the blue card. The folks who hire blue card workers under the current bill are going to have an advantage over those employers, those farmers who have been legal and utilized H-2A and who want to utilize H-2A in the future.

It is a very skewed way of arriving at a wage rate that we both agree upon. The question is, How do you get from today, from May 22, 2006, to a prevailing wage rate?

I say let's do it now. What the underlying bill says is let's take 35,000 or 40,000 workers who are here currently under H-2A, and let's allow them get to a prevailing wage rate down the road, within some certain period of time. But let's take this other 1.5 million and let's keep them depressed. Let's let farmers who hire that blue card worker continue. And it is not going to go away. You better believe they will be here working because they are going to

pay them a lower wage rate. It is not fair.

My amendment is all about fairness, and it requires farmers to pay a reasonable wage rate. They don't mind paying a reasonable wage rate to get an honest day's work out of an employee.

This amendment is not about numbers either. We had a lot of discussion the other night about numbers which, frankly, were developed by the American Farm Bureau. The American Farm Bureau has access to every farm in America. They have the ability to come up with what are the wage rates that are being paid by every farmer in America. That is how we arrived at our numbers. It is not about how Senator CRAIG arrived at his numbers for the adverse effect wage rate. That is not an argument on our part. This amendment is simply about fairness.

The AgJOBS portion of the underlying bill is simply not fair. It is not fair to the employers across the United States, and it is not fair to those who work on our farms—whether they are illegal, whether they are in a temporary worker program, a legal permanent resident, or a U.S. citizen.

Why? Because the underlying bill provides wage guarantees only to those foreign workers who come in under the temporary H-2A program. At present, those workers do number in—I don't know whether it is 35,000 to 40,000 or 45,000 to 50,000 this year, but that is the range it will be. The 1.5 million workers who will be legalized under the AgJOBS blue card program do not receive a wage guarantee. This is a tremendous flaw in the AgJOBS bill, in my opinion. If these blue card workers are willing to work for \$5.15 an hour, then that is all their employers have to pay them. Those folks who are here legally are going to be required to be paid the adverse effect wage rate, which is significantly above that minimum wage rate of \$5.15.

What is ironic to me is that these workers, whether here on a blue card or on a H-2A visa, are essentially the same. Most come from the same country, Mexico; and many from the same villages. Most are here because of the poverty that exists in their home countries. All are here to earn money to support their families and improve the quality of their lives.

Many will work in the same occupations. Shouldn't they be treated the same? I believe they should. Under the AgJOBS bill, they are not. The distinguished Senator from Idaho might argue that they are different and should be treated differently. He does, in a way, say that because those who are legalized with the blue card program will be here permanently. However, legalized blue card workers do not have permanent status. The blue card program simply allows these legal workers to stay here, employed in agriculture, until they meet all the requirements for legal permanent status.

No one can calculate how many of these transitional workers will ever be-

come legal permanent residents. Until they achieve legal permanent resident status they should be considered temporary foreign workers and treated similarly.

From the employer's side, no difference exists between employers who utilize the H-2A program and those who use the blue card program. This applies across the board to all commodities produced and livestock raised production methods and for their need of dependable workers. There is a major difference though. H-2A workers, many of whom have been coming to the same employers for years in this country legally—the vast majority did not bring their family members, and they returned home at the end of their periods of employment, just as the law requires.

These H-2A workers were not exploited while they were here because the employers played by the rules. Playing by the rules was expensive. The adverse effect wage rate is expensive. But those employers did it to their competitive disadvantage with a neighbor who employed illegals at a significantly lower rate, who did not pay the transportation costs of those workers, and did not provide those workers with housing.

On the other hand, illegal workers who will benefit from the blue card program broke our laws when they came here, even though they came here for the same reasons as the H-2A worker. The employers who hired them, perhaps some out of absolute necessity—and I understand that—but, by doing that, they also broke our laws. Regardless of the circumstances under which those illegal workers are employed in agriculture now, I would be willing to bet that many were exploited, underpaid, and indentured along the way.

That is why I do not understand why the underlying bill fails to protect the illegal workers, who adjust their status, and guarantee them a fair wage.

I also don't understand why the AgJOBS bill fails to protect U.S. workers who do farm work by neglecting to require employers who use foreign labor, whether they access via the H-2A program or the blue card program, to pay all workers in that occupation a prevailing wage.

Mr. CRAIG. Will the Senator yield on that point?

Mr. CHAMBLISS. I will be happy to.

Mr. CRAIG. Inside the AgJOBS Act there is a U.S. labor pool established. They would pay the going wage. They have to make sure that pool is exhausted so U.S. citizen agricultural workers are protected. You go there first before you go to hire a blue card worker or a H-2A-qualified worker.

I hope the Senator understands that they are protected in that sense, as it relates to making sure that they are the first in line, if you will, for a job that is available if they would choose to work in that field at the wage that exists at that point.



Mr. CHAMBLISS. I guess the question is, though: How many U.S. workers are out there who do take advantage of that now, or would in the future? I think you and I both know the answer. It is minimal at best.

Reclaiming my time—I am about to run out of time.

Mr. CRAIG. OK.

Mr. CHAMBLISS. We are going to have our time split at 5:15. Agricultural employers who utilize blue card workers must only pay the blue card workers the minimum wage and are not required to pay U.S. workers any more than the minimum wage. I think we can agree on that.

The H-2A program requires that employers who utilize H-2A pay all workers in the same occupations in which they employ H-2A workers the same wage guaranteed to every other H-2A worker.

Throughout this immigration debate we have heard that widespread use of foreign workers will depress wages and that employers will reject U.S. workers in favor of foreign workers who are willing to work for less. In fact, the Senate passed by a voice vote an amendment that was put forward by the distinguished Senator from Illinois, Mr. OBAMA, addressing this very issue.

Rather than trying to make the same argument that Senator OBAMA made, I simply want to quote him because it was on the same issue of prevailing wage for another program, the H-2C program. Here is what he said. It was a very good explanation. Senator OBAMA said that his amendment essentially says:

... the prevailing wage provisions in the underlying bill should be tightened to ensure that they apply to all workers and not just some workers. The way the underlying bill is currently structured, essentially those workers who fall outside of Davis-Bacon projects or collective bargaining agreements or other provisions are not going to be covered. That could be 25 million workers or so which could be subject to competition from guest workers, even though they are prepared to take the jobs that the employers are offering, if they were offered at a prevailing wage. My hope would be that we can work out whatever disagreements there are on the other side. This is a mechanism to ensure that the guest worker program is not used to undercut American workers and to put downward pressure on the wages of American workers.

That is exactly what I am saying because, if we have a prevailing wage, American workers are going to be more inclined to take those jobs rather than blue card workers coming in and being willing to take \$5.15 an hour. That is exactly what is going to happen if we set the prevailing wage, which is where it ought to be, rather than utilizing your blue card program, which is going to wind up in millions, or hundreds of thousands of agricultural workers being hired at minimum wage.

Let me close by saying, here is the reason that the adverse effect wage rate is so skewed. This is the chart that shows which States are used in calculating the adverse effect wage rate. In my case we use the southeast

region: Alabama, Georgia, South Carolina. A farm worker job, or a worker at the State farmers market in Atlanta, GA, is compared to the same agricultural worker at the farmers market in Thomasville, GA. They are 225 miles apart. One is a very urban area, Atlanta, GA. The other is a very rural area, Thomasville, GA. It is pretty easy to see why the Senator from Idaho says this is a skewed way to calculate wages. With that we agree.

The prevailing wage rate method of calculating wages says individuals who work at the farmers market in Atlanta will be paid a wage comparable to other farm workers in the Atlanta area. That wage earner in Thomasville, GA, will receive a wage that is comparable to agricultural workers who are paid in the Thomasville, GA, region.

I am prepared to yield back, assuming that we have approached the hour where we are going to divide these last 30 minutes?

The PRESIDING OFFICER. Under the previous order, the time until 5:30 shall be equally divided between the Senator from Georgia and the Senator from Massachusetts or his designee.

Who yields time?

Mrs. FEINSTEIN. Mr. President, I have had an opportunity to listen to the discussion between Senator CRAIG and Senator CHAMBLISS on this provision of AgJOBS which we put in as part of the blue card. I congratulate Senator CRAIG on one of the most colorful charts that we have seen.

The labor provision of this bill is a compromise that was negotiated. I think it makes sense to leave it that way. It is left that way for 3 years. This has been the subject of long negotiations. After many attempts to try to find the right balance, Senators Kennedy and Craig struck an agreement that was supported by both growers and farm workers across this Nation. That is the language in this bill.

Under AgJOBS, H-2A workers are paid the greater of the prevailing rate or the adverse effect wage rate. As Senator CRAIG has said, the standard is frozen at 2003, and growers will be required to pay the prevailing wage, or what the adverse wage rate was over 3 years ago. The compromise states that this will be the wage rate just for the next 3 years. And during that time, the GAO and a commission of agricultural and labor experts will perform two studies examining H-2A wage rates and making recommendations to Congress. If at the end of the 3 years Congress fails to enact a new adverse effect wage rate, the adverse effect wage rate would be adjusted by the cost of living.

While changing AgJOBS isn't, alone, a disqualification, I think we have to be very careful before we upset what has been a very carefully crafted compromise that is supported by a broad coalition of Members from all sides of the debate.

If I might, I would like to ask Senator CRAIG a question. Since he was the

one who negotiated this, is it not true that this is a broadly agreed upon solution for both farm workers as well as growers?

Mr. CRAIG. I believe it is fair and balanced. The reason it is is because we pushed a wage scale that is already there back 3 years. We do it this time to get right what the Senator from Georgia has proposed. He has shown the disparity that already exists out there—and it exists in all formulations when it relates to agriculture and agricultural jobs. We have never focused on agriculture except in the H-2A area. We believe it did get out of line, and that is why it is shoved back. Then we proceed, just as the Senator mentioned, in a methodical way to examine the country and get the wage scale rate right.

Mrs. FEINSTEIN. Is it not true that when I introduced the blue card program in the Judiciary Committee I just took that part of the H-2A program which the Senator and Senator KENNEDY had put together in the AgJOBS bill?

Mr. CRAIG. That is correct.

Mrs. FEINSTEIN. This has been a longstanding compromise that has been out there, which is a negotiated compromise.

If I might ask one other question, in the negotiations that the Senator had on AgJOBS, how long did it take to come up with this negotiated compromise?

Mr. CRAIG. Frankly, the adverse wage issue was one of the more contentious, for a variety of reasons—first of all, because producers saw it as being complicated with a lot of requirements other than just a wage, and obviously employment saw it as an advantage but limited. As a result, we were able to agree to shove it back.

As I say, that rarely happens in American history, to actually by law push the wage scale back but to do so with the understanding that we would get equity and fairness through the approach that the Senator has outlined. That was the approach we used. A coalition of well over 500, including agriculture, a lot of agricultural producers.

Mrs. FEINSTEIN. How long has this agreement been in place?

Mr. CRAIG. About 3 years—2½ years, actually, as we formulated it.

Mrs. FEINSTEIN. I thank the Senator. My time has expired.

I urge the Senate to vote no on the Chambliss amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. Mr. President, I yield myself such time as I may consume.

The Senator from California was not involved in those negotiations, and I chair the Agriculture Committee. I do not know how to respond to that other than by saying that certain segments of agriculture were involved in the negotiations, I assume. My dear friend from Massachusetts was involved, and I daresay that I have more farmers in

my home county than we have in the vast majority of Massachusetts.

My point is not that these discussions did not take place over a long period of time between farmers—I don't know who they were. But I can tell you this: The American Farm Bureau has looked at the AgJOBS provision. They have looked at my amendment. They have looked at the bill that I submitted which was somewhat contrary to AgJOBS. The American Farm Bureau—which, as I said earlier, has access to virtually every farm in America, particularly from the standpoint of the calculation of wages—has concluded that my amendment is fair and reasonable. And the American Farm Bureau is recommending a "yes" vote on the Chambliss amendment.

To say that this has been discussed over a period of time by a group, or a large group—whatever the term was—of farmers across America, my farmers were not involved in those negotiations. Senator CRAIG and I have had any number of conversations about the bill and about our various amendments. But we were not involved in those negotiations.

I see my friend from Iowa, Senator GRASSLEY. He comes from the Farm Belt of America. I daresay that his farmers were not involved in those negotiations. Let us be very clear about this. There was not a discussion or a negotiation by America's farmers for what they thought was best.

Mrs. FEINSTEIN. Will the Senator yield?

Mr. CHAMBLISS. I would be happy to yield.

Mrs. FEINSTEIN. I can speak for California, and California's Farm Bureau has signed off on this. I can tell the Senator that no State has as many farmers and growers as California does. This is the accepted agreement.

I thank the Senator.

Mr. CHAMBLISS. I thank the Senator from California for her comments, and I tell her that I dialog with many farmers in her State on a regular basis, particularly as chairman of the Agriculture Committee. I am hearing from a large number of her farmers in strong support of my amendment.

Again, when you say that a majority number of farmers in America think this is the way to go, you can't say that. That is simply not right. There are only—by Senator CRAIG's numbers—less than 50,000 farmers in America—and I happen to agree with him on this—who currently utilize H-2A. I daresay the rest of the farmers in America don't even know what "adverse effect wage rate" means. But I can tell you they know what "prevailing wage rate" means. They know when they hire a tractor driver in the southwest part of Texas what their neighbors are paying for a tractor driver. And that is how you calculate a prevailing wage. That is not how adverse effect wage rate says you will pay that tractor driver.

Whether farmers in California or farmers in Georgia or the northeast

part of our country, the market should dictate, and the market dictates under the prevailing wage rate. It simply does not dictate under the adverse effect wage rate.

That is why, in the Senator's bill, the adverse effect wage rate is rolled back 4 years. There is a flaw in the way the wage rate is calculated. If you are going to roll back the wage rate, which is actually going to move toward the utilization of the prevailing wage rate, let's do it now. Let's require that all farmers in America pay a reasonable wage rate for their employees based upon what other farmers in that region pay for employees.

For example, I know in northern California there are different crops grown than in southern California. There are different types of jobs. But today, under the AgJOBS bill, a farmer in northern California will pay exactly the same wage rate as a farmer in southern California.

Here is the chart. This shows how wage rates under this bill are calculated. They use the entire State of California. It is a different type of farming. There is a different skill required in northern California than there is in southern California. There is a different skill required in a tractor driver versus somebody who goes into the field and cuts lettuce or cuts cabbage or cuts squash or whatever it may be.

Under the adverse effect wage rate in the base AgJOBS bill, that is not taken into consideration. Under the prevailing wage under my amendment, it is taken into consideration.

If anyone says it is difficult to determine, how do I know in my example of Thomasville, GA, what it takes to hire that worker? Let me tell you what you have to do. You simply have to go to the computer and plug into a Web site, the Department of Labor. And you designate the area. You put into the computer where you are located, what the job is, and the computer immediately gives you what the Department of Labor has determined to be a prevailing wage. It is very simple and very easy. It ensures that one farmer next door to another farmer is paying employees the same wage rate. You don't have a farmer who is paying \$8.37 currently required by the adverse effect wage rate and the farmer next door paying \$5.15 an hour for the same job.

This is about fairness. It is about equity. It is about ensuring that farm workers who come here under the base bill, which I, frankly, don't agree with, but if we are going to pass this, then let us be fair to those employees who come here and work in agriculture. Let us pay them the rate that is prevailing in the area in which they work.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, standing in opposition to the amendment, it is fascinating to me that we now want to play a game of what groups and whose

associations. I find it fascinating that the California Farm Bureau, which supports the position, isn't quite good enough. The California Apple Commission, the California Avocado Commission, the California Association of Nurseries and Garden Centers, the California Association of Wine Grape Growers, the California Canners and Peach Association, the California Citrus Mutual—we have nearly 500 groups that have endorsed this.

The reason they have endorsed it is because they see the need to do it right and get a reasonable transition.

The Web site the Senator from Georgia is talking about has to be right. It has to be effective and reflective. It doesn't do that today. That information is now not available in that context.

Let me go back to the transition. We are talking about those who are illegal today and wanting them to come forward, get a background check, show us their credentials, qualify for a transitional status, called earned adjustment status, and a blue card, and to do so in a fair and responsible fashion.

They can stay and continue to work. While they are doing that, we are going to work to get the wage scale right. In our work over the last good number of years, literally hundreds and hundreds of agricultural groups and associations have stepped forward and said: Help us fix this. Help us use this blue card to get across, in a transitional way, for a legal workforce, in a reformed H-2A program. The compromise that the Senator from California talked about was just that. It was a transitional wage to get this fair and equitable.

What the Senator from Georgia is doing is not affecting the 40,000-plus of H-2A under adverse wage. We are doing that. We are shoving those wages back. He is affecting the 1.5 million that may cause agriculture to become non-competitive if we don't get the wage scale rate right and involve agriculture along with the Department of Labor, as our studies would do, to make sure we get an equitable and fair wage. Fair means two sides. For the worker, it means certainty; for the producer, absolutely, the product that is produced—especially in the vegetable crops, in the intensified labor crops—has got to be competitive against a world market crop, or we will shove those producers and that kind of production out of the country.

We have to do it in a balanced way. What we have offered allows the Senator from Georgia, as the chairman of the Agriculture Committee, to participate. He did not participate in these negotiations because he did not agree with them. He did not agree with the transition of getting through what we attempted to do in AgJOBS. That was his choice. In the end, both he and I agreed on many of the provisions except this one. It is important we stay with the work product.

Literally hundreds and hundreds of farm groups and associations across

the Nation that deal with this type of workforce recognize the need of the transitional period of time and the legality of the workforce, as do we. It is reflected in the bill. I hope our colleagues continue to support it.

Mr. LEAHY. Mr. President, the Comprehensive Immigration Reform Act includes a subtitle known as AgJOBS, a bill that has long been championed by Senator CRAIG, Senator KENNEDY, and a broad bipartisan group of Senators. I strongly support this bill because it will help both farmers and farm workers in Vermont and around the Nation.

AgJOBS contains a package of reforms that are badly needed in the seasonal agricultural worker program, called H-2A visas. AgJOBS was negotiated with the full participation of agribusiness and farmworkers' unions, and it reflects a fair and thoughtful balance of the needs of both farmers and workers.

The version of AgJOBS contained in S. 2611 protects business by ensuring a steady flow of legal workers. It assists agricultural workers by preventing wage stagnation in a growing economy and by providing labor protections. It helps both business and labor by giving trained and trusted foreign agricultural workers a path to permanent immigration status if they meet the requirements in the bill, such as paying fines and taxes, keeping a clean criminal record, and working the requisite number of hours.

The Chambliss amendment is an attack on wages for agricultural workers who are among the lowest paid laborers in America. By unfairly favoring the growers over foreign workers, the Chambliss amendment would upset the careful balance on wages and labor protections that were negotiated with the participation of agribusiness and unions in the AgJOBS bill.

The Chambliss amendment requires employers to pay workers the highest of two wage rates: the prevailing wage in the area of employment, which may be determined by an employer who conducts his own local survey, or the applicable State minimum wage. Basing wages on the higher of these two rates could result in deep cuts to wages. Some State minimum wages are very low, such as Kansas, which requires only \$2.65 per hour. Senator CHAMBLISS previously acknowledged that farm wages could fall by roughly \$3 per hour under his proposal. His proposal almost guarantees that no U.S. workers could afford to accept agricultural jobs and that foreign agricultural workers, who are already among the most poorly paid workers in America, would be paid miserly wages for their labor.

The Chambliss formulation does not include the well-balanced provisions of AgJOBS. Under AgJOBS, an employer must pay the highest of three wage rates: (1) the prevailing wage, (2) the Federal or State minimum wage, (3) or the "adverse effect wage rate," or AEWR, a regional weighted average

hourly wage rate for agricultural workers. The AEWR was established under the Bracero guest worker program for Mexican workers that ended in the 1960s. It was created to ensure that guest workers would not adversely affect American workers by depressing wages. Removing AEWR from the wage equation drives wages downward, which hurts all workers—American and foreign. It is no secret that our agricultural industries depend on cheap labor, and some estimate that 70 percent of agricultural workers presently working in the U.S. are undocumented. For all the of national security reasons I have cited throughout this debate, we need to bring agricultural workers out of the shadows. But we must also recognize that vulnerable populations deserve our support and protection. Farm workers are among the most vulnerable laborers in the Nation and I cannot support an amendment that would slash their wages further.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CHAMBLISS. How much time remains?

The PRESIDING OFFICER. The Senator from Georgia has 7½ minutes. The Senator from Massachusetts has 6½ minutes.

Mr. KENNEDY. I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thought there were certain values in this Senate upon which we could agree. If you work hard in this country, you shouldn't live a life of poverty. We have been trying to raise the minimum wage—which is \$5.15 an hour—trying to raise that for over 9 years, and our Republican friends, including the Senator from Georgia, have been opposed to it.

Look what this bill does. The current farm wage is \$10.11; for an agricultural job, it is \$7.86; and the Chambliss amendment is below the minimum wage. Not only is it below the minimum wage, but he specifically writes in his amendment that it will be below the minimum wage and State minimum wages will apply when they apply. But Georgia does not have a State minimum wage.

I don't know what the Senator from Georgia has against someone working for \$7.86 an hour. The cost of gas has gone through the roof. The cost of food has gone through the roof. A gallon of milk is \$3.09 a gallon; eggs, \$1.39; a loaf of bread is \$3.29; a pound of hamburger is \$3.99. And the Senator from Georgia, if we follow his suggestion, is driving wages down, not up.

This is \$7.86 an hour to try to get along. What we are trying to do is reduce the disparity. The Senator from Georgia said we were not involved in this. Well, we have 400 different organizations indicating to the Senate their support. We have broad support. More than 60 Members, Republicans and Democrats, cosponsored it, to bring it

up to \$7.86. But no, the Senator from Georgia wants this down to what some people have said is paid to pieceworkers, \$3 or \$4 an hour. Three or four dollars an hour? We might not have many farmers in Massachusetts, but whoever we have in Massachusetts understands below poverty wages, and \$3 or \$4 an hour for piecework is a poverty wage. It is wrong.

If it is so troublesome that they are going to get paid \$7.86, if Members are so worked up about that, if Members think that is too much for someone who works hard, for someone who does some of the most difficult work in this country, go ahead and vote for the Chambliss amendment.

Mr. President, \$7.86, when these workers have to pay \$3 to get a gallon of gasoline? Talk about fairness. I listen to the Senator from Georgia. Let's talk about fairness. Let's talk about equity. Let's talk about treating everyone the same. They will be treated the same, but they will be treated mighty shabbily. This is a question of respect for those workers. Do you respect them in the United States, these hard-working people? Finally, about 20 percent of agricultural workers are Americans. You will depress their wages, too? Evidently. I hope we are not going to be about that at this time in this debate and discussion.

I noticed that on page 2, the Senator talks about the prevailing wage, the occupation, and the applicable State minimum wage. Is there a State minimum wage in Georgia, I ask the Senator?

Mr. CHAMBLISS. The minimum wage in Georgia is \$5.15 an hour.

Mr. KENNEDY. In agriculture?

Mr. CHAMBLISS. Yes.

Mr. KENNEDY. The State minimum wage in agriculture is \$5.15 an hour. Am I right that there is no way that even those who are picking per bushel would go below \$5.15 an hour?

Mr. CHAMBLISS. What happens is these wage earners in the fields in Georgia and all over the country go out and they take a bucket out into the field. They cut squash, cucumbers, or they cut whatever the crop may be, they put it in that bucket, they dump that bucket in a bin, and they are given a chip. At the end of the day, those chips add up to dollars. They are required to be paid the minimum of either the minimum wage or, in this case, the adverse effect wage rate.

Mr. KENNEDY. I understand I may be wrong, and I wish the Senator from Georgia would correct me, the State minimum wage does not apply to agricultural workers. That is my understanding. If I am wrong, I hope the Senator will correct me. My understanding is the State minimum wage does not apply to agricultural workers.

I withhold the remainder of my time.

Mr. CHAMBLISS. I yield 3 minutes to the Senator from Georgia, my colleague, Senator ISAKSON.

Mr. ISAKSON. Let me respond to the distinguished Senator from Massachusetts.

Something he said—I am sure unintentionally—was very incorrect. He said we are going to force people, by what the Senator is trying to do, to earn less than the minimum wage. What we are, in fact, trying to do is to ensure that those who are working in the fields, who are illegal and are being abused and are not being paid the adverse effect wage rate, prevailing rate, or anything else, all those—maybe 1.8 million—will now get a pay raise under what the Senator is trying to do. He is saying they will be paid the higher of the minimum wage or the prevailing wage.

I ran for the Senate in the years 2003 and 2004. Although I worked farms in the 1950s, I had not been on a farm in a long time, and I spent a lot of time in south Georgia, slept in a lot of barns on farms. I got to know the onion folks, the peanut folks, and the row crops.

I spent the night in a farmer's barn—a mighty nice barn, I might add, with a nice double bed—I spent the night in the barn, and he complained about what happened. He hired H-2A workers, as he should, legal workers. According to the law, he paid them the adverse effect wage rate, and the farmer down the road from him hired illegals and paid them the minimum. They got away with paying much less for picking the same crop he was because he was obeying the law.

The circumstances the Senator has right now in the United States of America are the following: The unintended consequence of the adverse effect wage rate is that you are driving farmers to hire illegally rather than hire legally and pay them at adverse effect wage rates. That is what the Senator is trying to correct.

But it is absolutely incorrect to allege or to say that the bill of the Senator from Georgia, the chairman of the Agriculture Committee, would force people to be paid below the minimum wage. It will, in fact, ensure that workers will be paid the higher of the minimum wage or the prevailing wage; is that not correct?

Mr. CHAMBLISS. That is correct.

Mr. ISAKSON. Facts are stubborn things. We can argue about a lot of things, but treating people right is something Senator CHAMBLISS has been doing in Georgia, what I have grown up in Georgia doing, and I am sure what the Senator from Massachusetts does. The argument here is about repealing a law that has the unintended consequence of making it attractive to hire illegal aliens to work. What this bill is supposed to be doing is fostering legal immigration and equitable treatment for all.

I commend the distinguished Senator from Georgia. I commend the chairman of the Agriculture Committee. I pledge my support to this amendment and congratulate him on this effort.

I yield back the balance of my time.

Mr. KENNEDY. How much time do we have?

The PRESIDING OFFICER. The Senator has 1 minute 34 seconds.

Mr. KENNEDY. I yield a minute to the Senator from Idaho. I will reserve 34 seconds for myself.

Mr. CRAIG. Mr. President, as of April of 2006, the average fieldworker in the United States was paid \$8.96 an hour. The average livestock worker was paid \$9.30 an hour. The minimum wage is \$5.15. Do the math. That is why, when we put this bill together, we said we have to get it right for all parties involved.

I agree with the Senator from Georgia, producers are willing to pay a fair wage. And they should. And workers who work as hard as agricultural workers ought to be paid a fair and good wage. At the same time, we compete in a world market, and I hope we stay there.

I don't think you can meet with one farm organization and establish what the prevailing wage is going to be. That is why we mandated in our bill that the Department of Labor work with agriculture to get it right because we conclude that the H-2A adverse effect wage rate got out of line. I don't know what the right wage is. I wager that the Senator from Georgia probably doesn't know where it ought to be, either, in every segment of agriculture in our country.

I wish the Senators would stay with the bill and vote down the Chambliss amendment because in the end we want to get it right for all involved. We want to keep American agriculture competitive in a world market.

Mr. KENNEDY. Mr. President, no matter how you slice it, this is a major cut for workers with the Chambliss amendment, No. 1.

No. 2, we are trying to remedy the situation between documented and undocumented workers. We hear we have to do this because we are forced to have illegal workers. We are changing all of that. We are putting in place a system so we will have verification.

We do believe this figure, the \$7.86, for workers who work hard, play by the rules, and are trying to provide for their families, is not unfair, at a minimum. That is why I hope the Chambliss amendment will be defeated.

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

Mr. CHAMBLISS. Mr. President, I simply say to my friend from Massachusetts, I hear what the Senator is saying relative to the numbers the Senator just addressed, but here is what you are doing. You are taking 40,000 agricultural employees who now operate under H-2A and you are reducing their wages immediately. The chart Senator CRAIG had up here Thursday night showed what the numbers are. I don't remember what they are, but it is a significant reduction because you are rolling that wage back to what it was 4 years ago. Now, that is 40,000 agricultural workers.

Here is what you are doing to 1.5 million agricultural workers under your

bill. You are going to allow farmers across America who do not participate in H-2A to pay those blue card workers \$5.15 an hour. We can argue whether minimum wage is high enough, whether it ought to be more, but that is the effect of what you are doing with your blue card workers. So if the \$7 number is good enough for H-2A or not good enough for H-2A, whatever it is, it ought to be good for those 1.5 million workers who will have a blue card. That is what fairness in my amendment is all about.

When Senator CRAIG says let's get it right, let's do get it right. We agree the adverse effect wage rate is wrong. There is no disagreement about that. The question is, How do we correct it? How do we get to the point where it is fair? The way we get to the point where it is fair is we take the same method of calculation we do under every other labor bill, including the one we just passed last week, the H-2C bill that Senator OBAMA said: Let's put a prevailing wage rate on H-2C. I say let's put a prevailing wage rate on H-2A.

We understand we are not the ones to calculate that. It is calculated by the Department of Labor. It is calculated by the Department of Labor based upon the fair and accurate wages paid to individuals in different parts of the country who perform different jobs within agriculture. It is very easy to ascertain by the farmer what that wage rate ought to be.

It will remove the ability of the next door neighbor to come in and undercut that farmer, whether he is a blue card worker or whether they continue to be here illegally. It will depress the wages for those farmers rather than raising the standard for all workers to be paid a fair wage. It will encourage farmers—this is what we want to do—to participate in the H-2A program. If we had every farmer in America doing that, they would have a quality supply of labor from which to choose. They would have to pay those workers a reasonable rate, and America would never be in a position of being dependent upon foreign imports for our food supply.

We cannot afford to get there. This is a national security issue. We need to make sure farmers have those workers from whom to choose to make sure their crops are harvested.

Mr. President, I yield back my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. CRAIG. Mr. President, I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Wyoming (Mr. ENZI), the Senator from Arizona (Mr. MCCAIN), and the Senator from New Hampshire (Mr. SUNUNU).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Minnesota (Mr. DAYTON), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN), would vote "yea."

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

The result was announced—yeas 50, nays 43, as follows:

[Rollcall Vote No. 136 Leg.]

#### YEAS—50

Akaka	Durbin	Martinez
Baucus	Feingold	Mikulski
Bayh	Feinstein	Murray
Bingaman	Hagel	Nelson (FL)
Boxer	Harkin	Obama
Byrd	Inouye	Pryor
Cantwell	Jeffords	Reed
Carper	Johnson	Reid
Chafee	Kennedy	Salazar
Clinton	Kerry	Sarbanes
Conrad	Kohl	Schumer
Craig	Landrieu	Shelby
Crapo	Lautenberg	Specter
DeWine	Leahy	Stabenow
Dodd	Levin	Voinovich
Domenici	Lieberman	Wyden
Dorgan	Lincoln	

#### NAYS—43

Alexander	DeMint	Murkowski
Allard	Dole	Nelson (NE)
Allen	Ensign	Roberts
Bennett	Frist	Santorum
Bond	Graham	Sessions
Brownback	Grassley	Smith
Bunning	Gregg	Snowe
Burns	Hatch	Stevens
Burr	Hutchison	Talent
Chambliss	Inhofe	Thomas
Coburn	Isakson	Thune
Cochran	Kyl	Vitter
Coleman	Lott	Warner
Collins	Lugar	
Cornyn	McConnell	

#### NOT VOTING—7

Biden	McCain	Sununu
Dayton	Menendez	
Enzi	Rockefeller	

The motion was agreed to.

Mrs. FEINSTEIN. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### AMENDMENT NO. 4076, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the pending question is now amendment No. 4076, as modified, of the Senator from Nevada.

Mr. ENSIGN. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. ENSIGN. I ask for the yeas and nays.

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

The yeas and nays were ordered.

Mr. ENSIGN. I thank the Chair.

The PRESIDING OFFICER. There is now 2 minutes equally divided for debate on the amendment.

The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, very briefly, to inform my colleagues, this amendment is basically the President's proposal to use the National Guard to secure our borders as an interim step as we are adding to our Border Patrol agents on our southern border.

We all know we cannot have a commonsense, comprehensive immigration policy without having secure borders. It is going to take us years to get enough Border Patrol agents down there. In the meantime, we need to have the National Guard to supplement and to multiply the force of the Border Patrol agents down there. That is what this amendment does. I believe it is an important step toward making sure we know who is coming into this country, making sure terrorists are not coming into this country.

Mr. President, the Ensign amendment would codify the President's proposal to deploy the National Guard to the border. The President's proposal strikes a careful balance.

Over the next year, they would send up to 6,000 guardsmen. The following year, they would decrease this to a maximum of 3,000 guardsmen. As the guardsmen stand down, the Border Patrol would stand up, and in the end, we would have 6,000 more Border Patrolmen securing the border.

I remain concerned about the strain on the Guard. It is reassuring that the deployment will be limited in number and duration. I hope the administration will work closely with the Pentagon to ensure that we are not putting greater strain on those specialties that are needed in Iraq and Afghanistan.

Also, I applaud the President's decision to use the Guard in a supporting role and not for direct law enforcement missions. The Guard is not trained for the civilian Border Patrol missions and its complex combination of law enforcement, civil rights, and human rights issues. Nor should we ask them to be, for this is not their mission. They should provide support to the Border Patrol.

We must also ensure that any Guard activity is coordinated with the Governors. I agree with the border State Governors that securing our borders, particularly for the long term, is a law enforcement function. We should not militarize the borders. And, in the short term, we should respect the desires of the border State Governors regarding the utilization of the Guard along the border.

I urge that my colleagues support this amendment.

Mr. WARNER. Mr. President, I rise to add my support to this very important amendment offered by my good friend and colleague from Nevada, Senator ENSIGN.

Last Monday evening, a week ago, the President addressed this Nation,

forcefully and articulately making the case that one of the necessary steps in undertaking comprehensive immigration reform is to secure our national borders, particularly along our Southwestern States.

Following the President's speech by little more than a day, the Armed Services Committee held a hearing during which we closely questioned senior members of the Department of Defense, Joint Chiefs of Staff, the Chief of the Border Patrol, and the Chief of National Guard Bureau on the President's plan.

I strongly support the President's plan, and, on the basis of our hearing and subsequent discussions, I strongly believe that the National Guard is capable of providing this temporary support to the Bureau of Customs and Border Protection without degrading either its readiness for combat or its ability to respond to domestic emergencies.

I also believe that this amendment is important to show that the Congress is behind this effort to secure our borders as part of comprehensive immigration reform, and that we will provide the resources and legislation to do so. This amendment provides specific authority for deployment of the National Guard, and does so in a way that is careful to authorize both the types of activities, the duration of the training rotations, a limit on the authority to use the Guard for direct participation in law enforcement consistent with the President's intent, and a sunset date for the authority.

I commend my colleague from Nevada, who serves with me on the Armed Services Committee, for this important amendment that puts the full force of Congress behind the President's initiative to secure our borders and support our Border Patrol with the National Guard.

Mr. LEVIN. Mr. President, I intend to vote in favor of the Ensign amendment to authorize the National Guard to assist in securing the southern border of the United States. The National Guard has been used in a State status to perform Federal missions in the past—for counterdrug and counterterrorism missions—but Congress provided express statutory authorization for these efforts.

I believe that it is essential that we provide a similar statutory authorization here. This authorization gives Congress an appropriate opportunity to define the circumstances in which it is appropriate to provide Federal reimbursement for the National Guard in State status and the types of activities for which Federal reimbursement will be provided.

The key to the Ensign amendment, in my view, is that it makes it clear that the National Guard of a State will perform this mission only if ordered by the Governor of the State to do so. This provision makes it clear that the Governors retain control of the National Guard when it acts in a State

status. For these reasons, I support the Ensign amendment and urge my colleagues to support it as well.

Mr. BYRD. Mr. President, the Senate will soon vote on an amendment to authorize the use of the National Guard along the Southwest border of the United States. Last week, in hearings before the Appropriations Committee and the Armed Services Committee, I asked senior administration officials from the Department of Defense, the Border Patrol, the National Guard Bureau, and other military leaders about my concerns that this mission would detract from the ability of the National Guard to respond to emergencies in their home States.

Secretary of Defense Donald Rumsfeld, Chief of the National Guard Bureau General Steven Blum, and other witnesses gave their assurances that this plan to deploy troops to the border would not create a new, strenuous deployment of the Guard, it would not leave our States in a bind should a disaster strike while troops were on deployment, and it would allow Governors to make the final call as to whether National Guard units from their States should be used in support of the Border Patrol. Those witnesses also testified that National Guard units would only be used in missions and roles for which the troops are already trained.

I expect the administration to hold firm to these assurances, and the amendment before the Senate would help to limit the scope of the missions for which the Guard may be deployed.

While I still have questions about how the National Guard will carry out the missions that are assigned to it, we must not overlook the fact that the administration has missed many opportunities to tighten controls at our borders without depending on our citizen-soldiers to do the job. Since September 11, I have offered nine amendments to provide more funds to hire more Border Patrol agents, strengthen security at our borders, and stop the flow of illegal immigrants and contraband into our country. The administration opposed each one of my amendments, labeling them to be "extraneous," "unnecessary" spending that would "expand the size of government." If my amendments had been approved and supported by the administration, there would be thousands more Border Patrol agents on the job today.

Real homeland security cannot be found in a patchwork of quick fixes. Sending troops to the border is at best a Band-Aid solution to a serious problem. I will support this amendment, but I will also continue my efforts to provide the funds that are needed to provide lasting improvements to our border security.

#### ACTION CONSISTENT WITH PRESIDENT'S PLAN

Mrs. BOXER. Mr. President, the Bush administration has announced a plan that includes the use of National Guard forces to temporarily support Federal border patrol operations. While I sup-

port additional efforts to secure our borders, it is disappointing that nearly 5 years after the attacks of September 11, 2001, there are still insufficient U.S. Border Patrol personnel to adequately maintain the southern land border.

I appreciate the efforts by the Senator from Nevada to clarify the role of the National Guard in implementing the President's plan to secure the border. It is my understanding that the National Guard is being utilized under title 32 of the United States Code, which means that command and control rains with the Governor and the State or territorial government even though the Guard forces are being employed in the service of the United States for a Federal purpose. I also understand that under title 32, the Federal Government will reimburse States for costs, including the logistical costs, incurred during the mission. Finally, I understand that the National Guard will not directly participate in any law enforcement function, including search, seizure, arrest or similar activity.

Does the Senator from Massachusetts share my understanding that the Ensign amendment is consistent with the President's plan?

Mr. KENNEDY. Mr. President, the Senator from California is correct.

Mrs. BOXER. Mr. President, I thank the Senator from Massachusetts.

Mr. KENNEDY. Mr. President I ask unanimous consent that the following letter be printed in the RECORD.

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

MAY 18, 2006.

DEAR SENATOR: We the undersigned write to strongly oppose the Chambliss amendments aimed at gutting the "AgJOBS" compromise contained in the Hagel-Martinez bill before the Senate. The AgJOBS language is the product of the hard work of Senators Craig, Feinstein and Kennedy in collaboration with agribusiness employers, farmworker organizations, and a bipartisan group of Members of the House. We strongly support these needed reforms for the agricultural industry and its workers and we oppose changes that would turn this balanced package into a Bracero program.

In particular, we oppose the Chambliss amendment to lower the wages for farmworkers. Amendment 4009 would change the AgJOBS compromise on wage rates and slash the H-2A program's already inadequate wage rates by eliminating the protection of the adverse effect wage rate and the federal minimum wage from H-2A workers.

Currently, H-2A employers must pay the highest of three wage rates—the state or federal minimum wage, the "Adverse Effect Wage Rate" (AEWR), or the local prevailing wage. The AEWR was created under the Bracero guestworker program as a necessary protection against depression in prevailing wages (wage rates often stagnate because the guestworkers have little ability to demand higher wages). Sen. Chambliss himself described the effect of his provision as cutting H-2A program wage rates by roughly \$3.00 per hour!!

The AGJOBS compromise already addresses the H-2A wage issue. AgJOBS would reduce the adverse effect wage rates for each state by about 10% by setting them at the

rates in effect on January 1, 2003, and would then freeze the AEWR's for three years, while two studies are performed to examine H-2A wage rates and make recommendations to Congress. If Congress were to fail to enact an adverse effect wage rate formula within 3 years, the AEWRs would be adjusted at the end of 3 years by the cost of living. The AEWR issue is a complex one and is best left to the studies agreed to in the AgJOBS compromise.

Congress should not approve amendments that will encourage the agricultural industry to hire guestworkers at depressed wages—and that is exactly what the Chambliss amendments would do. This will harm both foreign workers and U.S. workers and the effort should be opposed.

Thank you for your consideration of this matter.

Sincerely,

American Federal of Labor-Congress of Industrial Organizations (AFL-CIO); American Federation of State County and Municipal Employees (AFSCME); Catholic Charities USA; Change to Win; Evangelical Lutheran Church in America; Farmworker Justice; Hebrew Immigrant Aid Society (HIAS); International Brotherhood of Teamsters; The International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW); Laborers' International Union of North America; League of United Latin American Citizens (LULAC); Mexican American Legal Defense and Educational Fund (MALDEF); National Council of La Raza (NCLR); National Farm Worker Ministry; National Immigration Forum; National Immigration Law Center; Service Employees International Union (SEIU); UNITE HERE; United Farm Workers of America (UFW); United Food and Commercial Workers International Union (UFCW).

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I believe most of us strongly support deploying the National Guard to our borders. I appreciate very much the sentiment and the direction this amendment goes. Unfortunately, it limits their ability and puts limitations on the time and on the mission the Guard provides. When you are sending troops into a difficult assignment, whether it is war or not, we should not be saying the Guard can only stay so long, the Guard can only do this or the Guard can only do that.

The President has outlined how he wishes to use the Guard. I support that. I believe it is a bad idea for Congress to say how we should be using our troops, whether it is in national security or homeland defense. Therefore, I urge a "no" vote.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I wholeheartedly support what the Senator from Missouri has said.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. ENSIGN. Mr. President, I ask unanimous consent for an additional 30 seconds to respond.

Mr. LEAHY. I ask unanimous consent that Senator BOND also have an additional 30 seconds.

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



Mr. ENSIGN. Mr. President, briefly, regarding the limitations the Senator from Missouri has brought up, a third of the forces the President has envisioned would not have any limitations. Two-thirds would basically be on their annual missions of 21 days, and they are specifically for the perception that they are there for police enforcement and are doing what the Border Patrol agents do. We put in the bill specifically what they would be doing.

There is all the flexibility in the world for the Guard to do the mission they are being sent down there to do. I think the concerns being raised are unfounded.

Mr. BOND. Mr. President, I appreciate the effort the Senator from Nevada is making. The problem is, some on the training missions may have to spend longer than that. They may want to spend longer than that. It may have the effect of having a different percentage of the Guard used for more than 15 days. It specifies limits on it.

I believe that while we support the general purpose of using the Guard, Congress should not be putting limitations on how it is used. I disagree with my colleague.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Wyoming (Mr. ENZI), the Senator from Arizona (Mr. MCCAIN), and the Senator from New Hampshire (Mr. SUNUNU).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Minnesota (Mr. DAYTON), the Senator from New Jersey (Mr. MENENDEZ), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Delaware (Mr. BIDEN) would have voted "yea."

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

The result was announced—yeas 83, nays 10, as follows:

[Rollcall Vote No. 137 Ex.]

YEAS—83

Akaka	Collins	Inhofe
Alexander	Cornyn	Inouye
Allard	Craig	Isakson
Allen	Crapo	Johnson
Baucus	DeMint	Kennedy
Bayh	DeWine	Kerry
Bingaman	Dodd	Kohl
Boxer	Dole	Kyl
Brownback	Domenici	Landrieu
Bunning	Dorgan	Lautenberg
Burns	Durbin	Levin
Burr	Ensign	Lieberman
Byrd	Feingold	Lincoln
Cantwell	Feinstein	Lott
Carper	Frist	Lugar
Chafee	Graham	Martinez
Chambliss	Grassley	McConnell
Clinton	Gregg	Mikulski
Coburn	Hagel	Murkowski
Coleman	Hutchison	Murray

Nelson (FL)	Santorum	Stabenow
Nelson (NE)	Sarbanes	Talent
Obama	Schumer	Thomas
Pryor	Sessions	Thune
Reed	Shelby	Vitter
Reid	Smith	Warner
Roberts	Snowe	Wyden
Salazar	Specter	

NAYS—10

Bennett	Harkin	Stevens
Bond	Hatch	Voinovich
Cochran	Jeffords	
Conrad	Leahy	

NOT VOTING—7

Biden	McCain	Sununu
Dayton	Menendez	
Enzi	Rockefeller	

The amendment (No. 4576), as modified, was agreed to.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that when the Senate resumes the bill tomorrow morning, there be 60 minutes for the Feinstein amendment, with Senator FEINSTEIN in control of 30 minutes, 20 minutes to the chairman, and 10 minutes for the ranking member; provided further that on the expiration of that debate, the Senate proceed to a vote on the Feinstein amendment No. 4087, with no intervening action or debate or second-degree amendments. We will vote on the Feinstein amendment at 10:45 a.m. tomorrow, since the Senate will be coming in at 9:45 a.m.

The PRESIDING OFFICER. Is there objection?

The Senator from New Hampshire.

Mr. GREGG. Mr. President, reserving the right to object, I would like to ask of the chairman of the committee, Senator CANTWELL and I have an amendment that has been pending. We were willing to move forward last week, we were willing to move forward today, and we are willing to move forward tomorrow. I am wondering if the chairman can give us a sense of when our amendment can be brought up so we can be heard and whether we can get a commitment from the chairman that we will have a reasonable amount of time, if not an excessive amount of time to debate it—say, an hour or 2 hours.

Mr. SPECTER. Mr. President, my sense is we will be able to reach it tomorrow. We are juggling a great many considerations. I had discussed the issue with the Senator from New Hampshire earlier. We talked about 1 hour equally divided.

Mr. GREGG. That would be fine with me if the other side is agreeable to that.

Mr. SPECTER. That would be my proposal when we come to it. I know the Senator from New Hampshire is waiting, and he is entitled to have his amendment heard. We will try to get to it tomorrow, and we will try to work out a time agreement of 1 hour equally divided.

Mr. GREGG. I appreciate the chairman making that representation. My concern, of course, is that it not end up in a vote-arama, should we get to a vote-arama, and that we have time to

debate it. With that representation, I will not object.

Mr. SPECTER. Mr. President, I do not expect vote-arama on this bill. This is not the budget resolution. The Senator from New Hampshire is familiar with budget resolutions.

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

The Senator from California.

AMENDMENT NO. 4087

(Purpose: To modify the conditions under which aliens who are unlawfully present in the United States are granted legal status)

Mrs. FEINSTEIN. Mr. President, I call up amendment No. 4087.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mr. HARKIN, proposes an amendment numbered 4087.

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

Mrs. FEINSTEIN. Mr. President, this is an amendment to modify the conditions under which aliens who are lawfully present in the United States are granted legal status. It is submitted on behalf of Senator HARKIN and myself. We have a half hour to argue the amendment tomorrow, but I would like to just raise a few points about it tonight. I did have the opportunity to speak about it earlier, but I recognize many Members were not yet back and available.

This amendment creates an orange card, a replica of which is on my left. This would streamline the process for earned legalization. It would create a more workable and practical program than exists in the Hagel-Martinez compromise, and it would dedicate the necessary dollars to cover the costs of administering this program. This amendment builds on compromises already agreed to under the McCain-Kennedy and Hagel-Martinez proposals, and it incorporates the amendments already adopted on the floor, but it eliminates what I consider to be a very unworkable three-tier program. This amendment only deals with the earned legalization parts of the bill. It does not change any of the border security provisions, the guest worker program, or any other component of the bill. It would simply eliminate the program created by Hagel-Martinez and replace it with this orange card program.

Under Hagel-Martinez, there are three tiers. Now, note this: We have not voted on Hagel-Martinez. Hagel-Martinez was an arrangement put together by Members of this body and it was brought up by using rule XIV. We have not voted on it. It essentially takes the 11.1 million people now in this country—working in this country, living in this country, raising their families in this country, but doing so in a clandestine way—and divides them into three different categories. For the 6.7 million who have been here more than 5 years, it would provide a transition to achieve earned legalization. For the 1.6 million who have been here less than 2 years or the 2.8 million who

have been here from 2 to 5 years, it creates two different tiers, and this is the bone of contention, these two different tiers.

I would say for anyone here as of the first of the year, we should provide this orange card process which I will describe in a moment. The problem doing it the Hagel-Martinez way is that it opens the door for fraud and for manipulation because you essentially have 4.4 million people here less than 5 years who would come forward and produce, in all likelihood, fraudulent documents, or simply remain in a clandestine status because they are working and they have families here.

The 2.8 million who have been here 2 to 5 years are then subject to leave the country, to touch back and enter into the country through a visa program, most likely the H-2C worker program which has 200,000. We lowered the cap for the H-2C program from 325,000 to 200,000 in an earlier amendment offered by Senator BINGAMAN and myself. But what people haven't realized is that the cap would be waived for individuals coming in from this tier, which would raise the guest worker program to 3 million people. And then here is the rub with the guest worker program: they would have to return after a period of time to their country. Therefore, there is no automatic path to earned legalization for these people, unless they can get an employer to petition for them for a green card. I think that is an unusual responsibility placed on an employer for so many people, and I think it is not fair for the employee, either.

Therefore, we have put forward a three-step process under the orange card amendment, which has received the support of 115 organizations and groups.

Under this amendment, all undocumented aliens who are in the United States as of January 1 would immediately register a preliminary application with the Department of Homeland Security.

At the time of the registration, they would submit fingerprints to the Customs and Immigration Services facility so that criminal and national security background checks could commence. It would create a more precise registration that would allow this to proceed electronically. That is a major key—proceed electronically so that DHS would have time to do the necessary processing and vet the application in an orderly manner. Then they would submit a full application for their orange card.

Once they have passed the security background check, they have paid their back taxes, they have paid the \$2,000 fine, then they would be issued the orange card. The orange card would have biometric identifiers, would have the history of the individual, and would have a number, and this number would be designed so that those who have been here the longest would be first in the line for the green card at the end of the work period.

As everyone recalls, there are 3.3 million people back in their own countries waiting for green cards. None of this goes into play until that green card list is expunged. It is estimated that could take anywhere from 6 to 11 years. So during that period of time, individuals in this country would have an identifier: the orange card. This would be their identification. They could come and go with it. It is fraud-proof, it is biometric, it has a photo, it has a fingerprint, and therefore provides a safe methodology. As long as individuals fill out the annual reports required by the program which attest to their work history, pay the fine, and pay their back taxes, they would keep the orange card effectively in place.

I wish to comment that first of all, Senators HAGEL and MARTINEZ have done a service. They have tried to work out a compromise. I find fault with that compromise only when you read the small print of the bill language. When you read the bill language, you see that it is a huge program with 4.4 million people having to be found, having to be sought out. If they are here for less than the 2 years, they are deported. Who would deport them? How would they be found? You are going to find 2 million people? I think that is very difficult to do. We know employer sanctions haven't worked. In 2004, total convictions under employer sanctions for the tens of thousands of employers who employ these people was a total number of 47.

So I believe the orange card would serve us well. It is a streamlined process. It has the ability to consider all people to avoid the problem of deportation but to create a system which is secure, where people are checked out, where they are held accountable for their work, held accountable for their payment of back taxes, held accountable for the payment of a fine so they can then come out of the shadows and live a more normal and more productive life.

This goes back to the original McCain-Kennedy formula, but in essence it essentially provides that there is an orderly process connected with this.

As I said earlier, I think there is a critical flaw in Hagel-Martinez, and that is those people who fall into the second tier can remain in the United States legally for up to 3 years, and then they must leave the country and find a legal program from which they may reenter the United States. This is the flaw because this would subject people to, once again, going back into a clandestine lifestyle rather than running the risk that they leave their families, go home, can't get into a program, and then can't come back again.

The other problem with the Hagel-Martinez program is that if an individual doesn't work for 60 consecutive days, they are out. There is no provision for injury, there is no provision for illness, and when you are dealing with 6 million people, that is a prob-

lem. Some people are going to be the victims of bona fide injuries or bona fide catastrophic circumstances and not able to work for a period of time. So if they become injured or ill and effectively can't be on the job for 60 consecutive days at any given time during the year, they are then subject to deportation.

I believe we have an opportunity, through the border patrol with 12,000 additional agents, 2,500 additional inspectors, the money in the supplemental appropriations bill for the border, the National Guard doing logistical support and physical work on the border, and the fence to be built on the border, to make a major step forward in securing our borders. The next step and the most important part of the bill is what is the proper handling of the 10 million to 12 million people who are here illegally in our country at this time.

I would respectfully submit to this body that the fair handling of these people is creating a pathway to an earned—not an amnesty—but an earned legalization where people have to document over a consequential period of time that they are working, they are good citizens, they are learning English, they are paying their taxes, and they are paying the fine. All of the proceeds from this fine would go to support the costs of the program. If there are 10 million people, at \$2,000, that produces \$20 billion for the additional hires that are necessary to run this program and hopefully run it well.

So we will continue to argue this tomorrow, and I ask that the amendment be set aside at this time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

Mr. GREGG. Mr. President, I would like to speak briefly on my amendment, which will hopefully be reached at some point here in the next day or so. It is an amendment I sponsored with Senator CANTWELL from Washington, and it addresses what we see as an issue that, although not major in the context of the overall immigration debate, remains rather significant.

There is today something called a lottery system. It is euphemistically called the diversity lottery system, which really I don't understand why it has picked up that name because it is really nothing like that. It is simply a lottery system. It says essentially that 50,000 people will get the right to become American citizens if they win a lottery and they are from countries which are deemed underrepresented. Most of those countries represent Eastern Europe and Africa. They don't have to do anything other than have a high school education or, alternatively, have worked for 2 out of the last 5 years in order to participate in this lottery. So the essential effect of this lottery system is that we are taking from around the world 50,000 people

who simply got lucky. There is no real reason we should take them. There is no policy reason to take them.

There is no such thing as an under-represented country really in our immigration system because of the fact that there are so many illegal immigrants in the country already. For example, if you were to take Poland, there are 47,000 people in this country who under this bill are presently illegal—that is the estimate—who may become legal. From Russia, there are about 46,000 people who qualify in that area. From Africa, there are 120,000 people who fall into that category. So these countries have a lot of people already here—some legally, a lot illegally, and they don't need representation.

Mr. FEINSTEIN. Mr. President, may I interrupt the Senator just for one brief change?

Mr. GREGG. As long as I will not lose the floor.

Mr. FEINSTEIN. Mr. President, I ask that instead of setting aside the amendment, it will be continuing in a pending status.

The PRESIDING OFFICER. The amendment is pending.

Mr. FEINSTEIN. Thank you very much.

Mr. GREGG. So this lottery system, which was created back a while ago—I think in the early 1990s—in a sense of good will or political correctness, really is not all that productive to us as a nation. So Senator CANTWELL and I have taken a look at it and said: Listen, if we are going to have a lottery system, why don't we at least apply it to people we actually need in this country to assist us in being a stronger nation, a more vibrant nation, a more economically successful nation?

We know that in our Nation today, we are missing—or not missing, but we know we are not producing and creating enough people in the sciences which are energizing economic activity in this world: the maths, math doctorates, the science doctorates. We know we have a real lack of technical ability in many arenas and that we are falling well behind other nations, such as China, in our ability to produce people in the sciences and math subjects.

Why not take this lottery system and say, rather than making it available to the cabdriver in Kiev, whom we may or may not really need in the United States, let's make it available to the physicist in Kiev. Why not say to the doctor in Poland or the doctor in Nigeria: You will have a chance to become an American citizen and have the opportunity to participate in this lottery, rather than saying to the street sweeper in Poland or the miner in Nigeria: It is your chance to participate in the lottery. So we have taken this proposal, which is 50,000 names thrown in a hat from these countries which are allegedly underserved, which are not underserved, and we changed it so that two-thirds of the names thrown in this hat will be of people who have advanced

science degrees, which our Department of Commerce and Department of State determine are in need here in the United States. Two-thirds of those lottery winners will have those degrees. The other third will remain people who only need to have a high school education or have worked 2 out of the last 5 years.

Basically the lottery system will be changed from being one of, we don't know who is coming in the country and we don't know what they are going to contribute to our society as they come in—we hope they will be people who will be hard-working and committed people, but they may actually be people who are not. In fact, if a person has only worked 2 out of the last 5 years and doesn't have a high school education, they can literally qualify for the lottery. Now I ask you, is that the kind of person we want to have qualified for the lottery? A person who may have been unemployed for 3 of the last 5 years, doesn't have a high school education, but they can get into the United States under the lottery. I think it makes much more sense to say let's have folks who have shown their energy, shown their commitment, shown their willingness to strive within their own communities by obtaining these advanced degrees, let's have those folks participate in the lottery.

Some will say the H-1B program already solves this because it is greatly expanded in this bill, and that allows people with advanced degrees to come into this country. That is true. That is good. This bill is excellent in that manner. But as a practical matter, this lottery would go to people who do not qualify for H-1B. In other words, to get an H-1B visa, you have to have a sponsor or, in other words, an employer here in the United States who is going to hire you or you have to have a family member who will sponsor you to come into the country.

There are a lot of people out there in these allegedly underserved countries who do not have somebody who is going to employ them because the groups that employ foreign nationals who have advanced science degrees don't go to those countries. They don't recruit in those countries, for all intents and purposes. And they don't have a family member here. So they are out of it. They can't get in. So it makes sense to take the lottery system and convert it to something that is going to be an add-on to America's success.

We hear a lot in this Chamber, especially from some of our colleagues, that we are outsourcing jobs, we are outsourcing our jobs to other countries. What this proposal does is it insources people who will create jobs in our country. It says let's go out and find the best and the brightest people around the world and say: Listen, we would like to have you live in the United States and create jobs in the United States, use your ability to produce in the United States. If you

don't have a person who wants to employ you and you don't have a spouse here who is willing to sponsor you or a family member who is willing to sponsor you, we still would like you to have a shot at coming here, because most would like to, and we have a lottery system that says you can win it and get into this country.

I note that under the present lottery system, we have seen abuses. In fact, the report of the inspector general of the State Department found significant fraud and mismanagement of this program and the fact that people were coming into the country who really should not have come into the country, but they won the lottery or they were relatives of people who won the lottery. Obviously, the most egregious example of that was the terrorist individual who attacked the L.A. airport and shot up the El Al counter. He was in the United States because his spouse had won the lottery. Not a good decision for us.

It seems to me that rather than just flipping a coin and saying: Hey, listen, if you are out there and you want to come to work and you are from one of these countries which are allegedly underserved—which, by the way, they are not underserved, as I pointed out in the early part of my statement—you have a chance to come here. Let's at least say for the majority of the people who have won the lottery that you have to have done something, you have to have shown something, you have to have produced something, you have to have been willing to go out there and show you have the character and the energy and the intelligence to actually be an addition to our society, an add-on, a creator of jobs in our society, a creator of economic activity, a creator of a stronger society rather than just have the good fortune of having drawn a lucky number.

That is what this bill does. I cannot really understand the opposition to it. A lottery system—I am not sure it ever really had a good time to exist, but clearly now is not a good time for it to exist. We have 12 million people in this country who arguably won the lottery by coming into this country illegally. I guess you could say that. Under this bill, some of them are really going to win the lottery because they are going to go to the back of the line, but they are getting on the line and obtaining what is called earned citizenship, as the Senator from California was saying. But the simple fact is, we don't need to add to that great mass of people. They are here already. If we are going to add people to our culture from the immigration standpoint, let's add people who we know on the face of it are likely to contribute significantly to making us a stronger and more vibrant nation, especially economically.

If we are going to have a lottery, let's just not make it an arbitrary event. Let's make it something that assists not only the person who wins but also our Nation, so that both sides

are winners under the lottery, not just one side.

The House took a look at the lottery. In their bill, they determined it was so inappropriate, they simply abolished it altogether. So it seems to me if we take this position we will be strongly positioned in conference to present the case that the lottery can work for us as a nation, rather than be a loss leader. That is why this amendment has picked up considerable support. It is bipartisan support.

I look forward to having a more extensive debate on it with my cosponsor, Senator CANTWELL, who understands. She comes from Washington State where they understand the need to get some top-quality people in our country in the area of science, as the home of Microsoft, which is clearly the engine of the Internet, the engine of the expansion of technology over the Internet and in computer science that has driven the world, not only the United States. They understand uniquely in Washington State, as we all hopefully do, the need to bring smart, intelligence people from across the world into our Nation and keep us competitive with countries such as China that are turning out four or five or six times the number of scientists we are turning out annually.

That is why this is important. It is not, obviously, the biggest vote on this stage. There have been a lot of votes dealing with the substance of this bill which has huge implications relative to the numbers of people who come into this country and how they come into this country and how we protect our borders, but it is one part of the system we have to make more rational, better, but to be a system where not only does the immigrant win but America wins.

With that, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I wish to speak in support of the amendment of Senator GREGG to deal with the lottery provision that is currently in the code involving immigration. We have many odd and curious provisions in our immigration law, but I suppose the lottery provision is one of the most odd and most curious. It seems to me to be unprincipled, without any real thought as to how it would effect a policy that is good for America. What kind of thing is this, that you do a lottery to let people come in from around the world?

His approach would be to say: Let's focus two-thirds of those slots on people with higher skills and higher education. I want to speak in favor of that and say, really, we need not only to do

this two-thirds, but it would be better, in my view, to do the whole lottery program in this fashion. In addition, we need to reevaluate entirely this bill which is before us today to ask ourselves with some thoughtfulness how we can make future immigration policy beneficial to our country. It ought to benefit us. Everybody who comes here, no matter how poor or uneducated, according to the witnesses we heard at our one hearing, is benefited economically.

The poorer they are the more they benefit. They benefit, but the question is, What about the United States? Do we benefit? Is it a net gain for the United States?

We had a number of professors who testified—Professor Freeman, Professor Siciliano, Professor Chiswick, and others whose names escape me—and talked about this quite openly. These are the fundamental facts that should be part of any thoughtful, comprehensive reform of immigration in America.

The facts are these: People with college credit, people with a college degree uniformly contribute more to this country in taxes than they take out in benefits. The people who come to our country with less than a high school education, a high school dropout or somebody who just didn't have the opportunity, they don't have a high school degree—and over 50 percent of illegal immigrants entering our country today are without a high school degree—those people, it is uniformly agreed by professional economists who studied this issue, most of whom testified at our committee, strongly favor immigration but they all agree they will on average—not every single one but on average—draw more from the U.S. Treasury and U.S. coffers than they put in.

Does that tell us anything? What is happening in Canada? What is happening in France right now? What has already happened in Britain, Australia, Switzerland, and the Netherlands? These countries have reevaluated their immigration policy. They are focusing on bringing in people who benefit the country.

We cannot accept everybody. Isn't it a simple principle? There is no way this country can accept everybody who would like to come.

The leading expert on immigration—I think universally agreed on immigration—such as Professor Voorhas from the Kennedy School at Harvard, he himself is an immigrant. He immigrated here from Cuba. The name of his book, probably the most authoritative book on the entire subject, is entitled "Heaven's Door." What is that? "Heaven's Door" is entry into the United States.

For a poor person in the Third World who has been abused by a legal system that does not work, who does not have clean water, who does not have a legitimate job, who does not have electricity, getting to the United States,

the title of his book, is like going through Heaven's door. It is a tremendous thing.

But the world has a lot of people in it. We already have a lot of people in the United States. We have to ask ourselves: How many can we welcome? What people will achieve their dreams and aspirations most successfully here, people who are high school dropouts or people who have a greater education?

We also need to ask, as Canada does: Do they speak English? Australia does. They ought to speak English before they come here.

What is it about letting in hundreds and hundreds of thousands of people on the theory that they might one day learn English, and that would be a requirement for citizenship. But if we have gotten more applicants than we can accept, why would we not want to ask ourselves whether we should give extra points, a higher listing on the list, if they already speak English? They would be guaranteed to be more successful here and more likely to assimilate, more likely to be promoted, more likely to be a boss over other people. If you can't speak the language, how can you ever rise to be a supervisor?

Those are important things, I submit, and not considered in the legislation before us at all.

Senator CRAIG's amendment is a very good amendment. It focuses on a critical matter. Let me tell you what my staff has concluded from their careful study of the bill. We believe that as it is presently written today only 30 percent of the people coming into this country will come in as a result of their skills or education. That is a pretty stunning number. Only 30 percent coming into our country will have their entry evaluated, their skill level or their education level, whereas 70 percent will come into our country for other reasons.

For example, if a young man came to our country under the new guest worker program that would be made law today, and that guest worker program would allow him to come into the country to file for a green card the first day he arrived here, within 5 years from that he can apply for and obtain as of right his citizenship in the United States. That will happen under the bill. Within 6 years, the person could possibly be a citizen of the United States coming in under a program which the bill says is a temporary guest worker provision. They say it is a temporary guest worker section of the bill. It has big letters, "Temporary Guest Worker."

But on the first day they get here, their employer can ask for a green card. A green card means you have legal permanent residence. Within 5 years of getting that card, they can become a citizen. A legal permanent resident means if you never seek citizenship you can stay in the country once you get that green card for the rest of your life.

What I am saying is, under this provision a young man can come in—and he is 20 years of age. If he works 5 or 6 years, he becomes a citizen. Now he is 30, and he has a 50-year-old brother, a 60-year-old, a 70-year-old mother and father. They can be brought into this country under chain migration, whether or not they have any skills or any education that would be relevant to their success in the United States of America.

Think about this: Let us say they are both from Honduras. Let us say this is a young man who was valedictorian of his school in Honduras, who had a chance to take an English course and took English and learned it well, was able to go to a technical college and became skilled in electricity, and he applies at age 21 to come to the United States. Would he not have the advantage over a 50-year-old brother or a 70-year-old mother of someone who is already here when those people who may or may not have any skills which would be beneficial to the country could likely become a drain on the Nation's resources?

That is how we have 70 percent of the people coming into our country under the new provision who are supposed to be in a comprehensive reform of the immigration system? That does not make sense. We need to focus more on providing opportunities for people to enter our country who have the greatest potential to succeed. It is perfectly proper and legitimate for us to ask: What is the worker status, the wages that are being paid in a given area, and do we have a shortage?

In my view, the Department of Labor should not allow surging immigration when we have certain fields in the United States where there are more workers than there are jobs and you let a bunch of people come in from out of the country to take what few jobs there are leaving Americans unemployed.

We need to consider all of those things. But, fundamentally, when you make a choice between two individuals—a younger person, a person who speaks English, a person who has skills—who is going to be far more successful? If they are successful here themselves, and if they benefit and if they are blessed by the great freedoms and economic prosperity and the free market we have in America, if they are blessed by that, they will pay more taxes to the Government than they draw from the Government. That is a pretty good thing, I submit.

One reason I have been so critical of this legislation—and I remain steadfastly convinced that it is not worthy of the Senate of the United States—is the legislation seems to have given no thought to these issues whatsoever. We certainly never had a hearing to deal with it, to my knowledge. A lot of things we haven't done that we could have done. We could have studied more, we could have had more experts come in and testify and help us craft the leg-

islation. We should have brought in immigration people who work for the Government of the United States to find out what is working and what is not working.

I talked to the person in the Dominican Republic, the American consulate official who meets with those people in the Dominican Republic who would like to come to the United States. He seemed like a very nice guy. He made some mention about sham marriages. So we talked about that.

As a U.S. attorney prosecuting a case where people created a sham marriage for immigration purposes, he said they won't even talk about prosecuting a case in the Dominican Republic. And he has seen lots and lots of sham marriage cases that were never prosecuted.

Why do they have a sham marriage? Because if you are married to somebody who is in the United States, they can take their wife and their children. That is the way to get people here. So they create a sham marriage.

But he told me that 95 percent of the people in the Dominican Republic who were approved to come to the United States were approved under the chain migration or family connection provisions in our code.

Fundamentally, almost no one coming from the Dominican Republic to the United States is coming because they have a skill that would benefit us and that would indicate their likely success in our society. They come in because some other family member of a qualified relation is here as a citizen or even a green card holder. That is how they get to come. They are creating a false document to show these are relatives or their spouses and they are married when it is not so.

As I have said a number of times on the Senate floor, 60 percent of the people in Nicaragua in a recent poll said they would come to the United States if they could, and I understand 70 percent of the people in Peru, when polled, said they would come to the United States if they could.

What does that mean? Think about it.

Mexico, all of Central America, Haiti, the Dominican Republic, Jamaica, Morocco, all of the African nations, the Middle East, Bangladesh, China, India, Taiwan, the Philippines—all these nations around the world with great people in them—wonderful people but in each one of those countries are significant numbers of people, I submit, who would come to the United States if they could. Wouldn't it be a good policy for our Nation? Wouldn't it be the right thing to think seriously about who should come, like Canada and Britain, and as France did last week, and refocus our attention on accepting a certain number of people but making sure those people bring skills and talents with them to indicate they would be a positive benefit to our society rather than a net drain on society?

That is a challenge. We simply cannot accept everyone who wants to

come. It is painful to bring people who are not able to speak English or effectively take advantage of the opportunities our country has. When they do not do that, they do not do well. They tend to pull themselves apart and continue to speak their own language. They do not advance and assimilate and become part of the great melting pot we are so proud of as Americans.

It is a big step forward to take this lottery, to put two-thirds of those people who are in it, who are now chosen by random chance, without any regard to skills or abilities or language or those matters, to at least set them aside for high-skilled positions for education, science, mathematics. It would be a great benefit to our country.

I yield the floor.

Mr. LEAHY. Mr. President, when the Senate resumed its consideration of comprehensive immigration reform last week I began by expressing my hope that we would finish the job the Judiciary Committee started in March and the Senate began in April. We need to fix the broken immigration system with tough reforms that secure our borders and with reforms that will bring millions of undocumented immigrants out of the shadows. I have said all along that Democratic Senators cannot pass a fair and comprehensive bill alone. Last week we got some help.

We got some words of encouragement from President Bush last Monday night when he began speaking out more forcefully and in more specific terms about all of the components needed for comprehensive legislation. For the first time, he expressly endorsed a pathway to earned citizenship for the millions of undocumented workers now here. I thank him for joining in this effort. We will need his influence with the recalcitrant members of his party here in the Senate, and especially in the House, if we are ultimately to be successful in our legislative effort. Without effective intervention of the President, this effort is unlikely to be successful and the prospects for securing our borders and dealing with the hopes of millions who now live in the shadows of our society will be destroyed. Those who have peacefully demonstrated their dedication to justice and comprehensive immigration reform should not be relegated back into the shadows.

Last week the Senate made progress. We made progress because Democratic and Republican Senators working together rejected the most strident attacks on the comprehensive bill that we are considering. We joined together in a bipartisan coalition in the Judiciary Committee when we reported the Judiciary Committee bill. Democratic Senators were ready to join together in April and supported the Republican leader's motion that would have resulted in incorporating features from the Hagel-Martinez bill, but Republicans balked at that time and continued to filibuster action. Last week, Republicans joined with us to defend the

core provisions of that bill, and we defeated efforts by Senators KYL and CORNYN to gut the guest worker provisions and to undermine the pathway to earned citizenship. Instead, we adopted the Bingaman amendment to cap the annual guest worker program at 200,000 and the Obama amendment regarding prevailing wages in order to better protect the opportunities and wages of American workers.

I spoke last week about the need to strengthen our border security after more than 5 years of neglect and failure by the Bush-Cheney administration. A recent report concluded that the number of people apprehended at our borders for illegal entry fell 31 percent on President Bush's watch, from a yearly average of 1.52 million between 1996 and 2000, to 1.05 million between 2001 and 2004. The number of illegal immigrants apprehended while in the interior of the country declined 36 percent, from a yearly average of roughly 40,000 between 1996 and 2000, to 25,901 between 2001 and 2004. Audits and fines against employers of illegal immigrants have also fallen significantly since President Bush took office. Given the vast increases in the number of Border Patrol agents, the decline in enforcement can only be explained by a failure of leadership.

The recent aggressive and well-publicized enforcement efforts to detain illegal immigrants seem to be election-year posturing that does little to improve the situation. We need comprehensive reform, backed up by leadership committed to using the tools Congress provides, not to piecemeal political stunts.

Once again the administration is turning to the fine men and women of National Guard. After our intervention turned sour in Iraq, the Pentagon turned to the Guard. After the government-wide failure in responding to Hurricane Katrina, we turned to the Guard. Now, the administration's longstanding lack of focus on our porous Southern border and failure to develop a comprehensive immigration policy has prompted the administration to turn once again to the Guard. I remain puzzled that this administration, which seems so ready to take advantage of the Guard, fights so vigorously against providing this essential force with adequate equipment, a seat at the table in policy debates, or even adequate health insurance for the men and women of the Guard.

I have cautioned that any Guard units should operate under the authority of State Governors. In addition, the Federal Government should pick up the full costs of such a deployment. Those costs should not be foisted onto the States and their already overtaxed Guard units.

Controlling our borders is a national responsibility, and it is regrettable that so much of this duty has been punted to the States and now to the Guard. The Guard is pitching in above and beyond, balancing its already de-

manding responsibilities to the States, while sending troops who have been deployed to Iraq. The Guard served admirably in response to Hurricane Katrina when the Federal Government failed to prepare or respond in a timely or sufficient manner. The Vermont Guard and others have been contributing to our national security since the immediate aftermath of 9/11. After 5 years of failing to utilize the authority and funding Congress has provided to strengthen the Border Patrol and our border security, the administration is, once again, turning to the National Guard.

It was instructive that last week President Bush and congressional Republicans staged a bill-signing for legislation that continues billions of dollars of tax cuts for the wealthy. Instead of a budget with robust and complete funding for our Border Patrol and border security, the President has focused on providing tax cuts for the wealthiest among us. Congress has had to step in time and again to create new border agent positions and direct that they be filled. Instead of urging his party to take early and decisive action to pass comprehensive immigration reform, as he signaled he would in February 2001, the President began his second term campaigning to undercut the protections of our Social Security system, and the American people signaled their opposition to those undermining steps. While the President talks about the importance of our first responders, he has proposed 67 percent cuts in the grant program that supplies bullet-proof vests to police officers.

Five years of the Bush-Cheney administration's inaction and misplaced priorities have done nothing to improve our immigration situation. The Senate just passed an emergency supplemental appropriations bill that allocated nearly \$2 billion from military accounts to border security. The Democratic leader had proposed that the funds not be taken from the troops. But last week the President sent a request for diverting a like amount of funding, intended for capital improvements for border security, into operations and deployment of the National Guard. The Republican chairman of the Senate Appropriations Subcommittee on Homeland Security came to the Senate floor last week to give an extraordinary speech in this regard.

In addition, last week the Senate adopted a billion-dollar amendment to build fencing along the Southern border without saying how it would be funded. We also adopted amendments by Senators BINGAMAN, KERRY, and NELSON of Florida to strengthen our enforcement efforts.

Border security alone is not enough to solve our immigration problems. We must pass a bill—and enact a law—that will not only strengthen the security along our borders, but that will also encourage millions of people to come out of the shadows. When this is accomplished we will be more secure because we will know who is living and

working in the United States. We must encourage the undocumented to come forward, undergo background checks, and pay taxes to earn a place on the path to citizenship.

Last week we defeated an Ensign amendment to deny persons in legal status the Social Security benefits to which they are fairly entitled. I believe that most Americans will agree with that decision as fair and just. It maintains the trust of the Social Security trust fund for those workers who contribute to the fund.

The opponents of our bipartisan bill have made a number of assaults on our comprehensive approach. Senators KYL, SESSIONS, and CORNYN opposed the Judiciary Committee bill. Senators VITTER, ENSIGN, and INHOFE have been very active in the amendment process, as well. I hope that they recognize how fairly they have been treated and the time they have been given to argue their case against the bill and offer amendments. We have adopted their amendments where possible. A narrowed version of the Kyl-Cornyn amendment disqualifying some from seeking legalization was adopted. The Sessions amendment on fencing was adopted. The Vitter amendment on documents was adopted. The Ensign amendment on the National Guard is being considered. Over my strong objection and that of the Democratic leader, Senator SALAZAR and others, a modified version of the Inhofe amendment designating English as our national language was even adopted. This amendment is wrong and has understandably provoked a reaction from the Latino community as exemplified by the May 19 letter from the League of United Latin American Citizens, the Mexican American Legal Defense and Educational Fund, the National Association of Latino Elected Officials Educational Fund, the National Council of La Raza, the National Puerto Rican Coalition, and from a larger coalition of interested parties as reflected in a May 19 letter from 96 national and local organizations. I will ask copies of these two letters be printed in the RECORD following my statement.

I trust that with so many of their amendments having been fairly considered and some having been adopted, those in the opposition to this measure will reevaluate their previous filibuster, that they will vote for cloture, and, I will hope, support the compromise bill.

Immigration reform must be comprehensive if it is to lead to real security and real reform. Enforcement-only measures may sound tough but they are insufficient. The President has acknowledged this truth. Our bipartisan support of the Senate bill is based on our shared recognition of this fact. In these next few days, the Senate has an opportunity, and a responsibility, to pass a bill that addresses our broken system, with comprehensive immigration reform.



I ask unanimous consent that the aforementioned letters be printed in the RECORD.

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

MAY 19, 2006.

DEAR SENATOR: On behalf of the undersigned national Latino organizations, we are writing to express our grave concern at the passage of the Inhofe Amendment to the immigration reform bill currently under consideration in the Senate. We believe this amendment jeopardizes the health and safety of all Americans by undercutting federal, state, and local government's capacity to provide vital information and services to immigrants and Americans who are speakers of other languages. This amendment has nothing to do with immigration reform, and it does nothing to help immigrants learn English. We believe it has no place in this bill and urge you to reconsider it.

Upon review of the language of this amendment, we have reached the conclusion that it would undercut policies that facilitate communication with people who are speakers of other languages. If this amendment becomes law, it would jeopardize the delivery of public health and safety messages that are intended to protect all Americans. The amendment would make it more difficult for agencies like the Federal Emergency Management Agency (FEMA) and the Centers for Disease Control and Prevention (CDC) to respond to a flu pandemic, another hurricane disaster like Katrina, or another terrorist attack. If some portion of the community does not receive information about immunizations or other health threats in a language they can understand, then the entire public is at risk.

We are also offended by the premise reflected in the amendment and the debate which took place on the Senate floor that the English language is somehow "under attack" in the United States. Immigrants and all Americans understand that English is our common language. If there is a challenge to the integration of immigrants, it is that there are insufficient English classes available to meet the demand from immigrants who are eager to take them; the Inhofe Amendment does not help a single immigrant learn English. We stand ready to join in a debate on how to create new resources and options to facilitate English classes and the full integration of immigrants into our society. We deeply regret that the Senate failed to choose this course of action and instead voted on a counterproductive proposal that would do real harm while doing nothing to promote English-language acquisition.

The presence of this amendment in the immigration reform bill calls into question our community's support of the immigration reform package. We urge you in the strongest possible terms to reconsider this damaging vote.

Sincerely,

Hector Flores, National President, League of United Latin American Citizens (LULAC).  
John Trasviña, Interim President and General Counsel, Mexican American Legal Defense and Educational Fund (MALDEF).

Arturo Vargas, Executive Director, National Association of Latino Elected Officials Educational Fund (NALEO).

Janet Murguia, President and CEO, National Council of La Raza (NCLR).

Manuel Mirabal, President and CEO, National Puerto Rican Coalition (NPRC).

MAY 19, 2006.

DEAR SENATOR: We, the undersigned 96 national and local organizations, understand that the Senate voted yesterday to approve

an amendment offered by Senator Inhofe which affirms English as the nation's national language and which could undercut policies which facilitate communication with people who are speakers of other languages. We are alarmed at this development and urge you to reconsider this ill-advised vote.

There is no question that English is the common language of this Nation; many of our organizations offer English-language classes and can testify to the fact that the demand for instruction far exceeds the supply. If there is one single issue that stands in the way of immigrants learning English, it is a lack of resources to provide sufficient classes for those seeking to take them. We are sorely disappointed that the Senate debate on language focused on a proposal to limit communication with immigrants rather than on increasing access to programs that can actually assist immigrants as they attempt to learn English while working, raising families, and contributing in multiple ways to the vibrancy of this country.

In addition, the Inhofe Amendment undermines the health and safety of all Americans by undercutting federal, state, and local government's capacity to provide vital information and services to immigrants and Americans who are speakers of other languages. It would jeopardize the delivery of public health and safety messages that are intended to protect all Americans. The amendment could make it more difficult for agencies like the Federal Emergency Management Agency (FEMA) and the Centers for Disease Control and Prevention (CDC) to respond to a flu pandemic, another hurricane disaster like Katrina, or another terrorist attack. If some portion of the community does not receive information about immunizations or other health threats in a language they understand, then the entire public is at risk.

This amendment has nothing to do with immigration reform, and it does nothing to help immigrants learn English. We believe it has no place in this bill and urge you to reconsider it.

Sincerely,

ACORN; American Immigration Lawyers Association; Americans for Democratic Action, Inc.; Arab Community Center for Economic and Social Services; Asian American Justice Center; Asian American Institute; Asian and Pacific Islander American Health Forum; Asian Pacific Islander Coalition of King County; Asian Communities for Reproductive Justice; Asian Law Alliance; Asian Law Caucus; Asian Pacific American Legal Center of Southern California; ASPIRA; Bell Policy Center-Denver; Break the Cycle; Carter and Alterman; CASA of Maryland, Inc.; Center for Justice, Peace and the Environment; Center for Law and Social Policy; Central American Resource Center/CARECEN-L.A.; Centro de la Comunidad, Inc.

Centro Hispano of Dane County; Chinese for Affirmative Action/Center for Asian American Advocacy; CHIRLA; Coalition of Limited English Speaking Elderly; Community Legal Services, Inc.; Cross-Cultural Communications, LLC; Cuban American National Council; District of Columbia's Fellowship of Reconciliation; Escuela Tlatelolco Centro de Estudios; Fuerza Latina; Greater New York Labor-Religion Coalition; Immigrant Legal Resource Center; Immigration Law Office of Kimberly Salinas; Institute of the Sisters of Mercy of the Americas; Korean American Voters Alliance; Korean Resource Center—Los Angeles; La Causa Inc.; La Clinica del Pueblo; Latino and Latina Roundtable of the San Gabriel Valley and Pomona Valley; Latino Leadership, Inc.;

Law Center For Families; Lawyers' Committee for Civil Rights Under Law; League of

United Latin American Citizens; Legal Momentum; Luther Immigration and Refugee Service; Mary's Center for Maternal and Child Care, Inc.; Mexican-American Council; Migrant Legal Action Program; Minnesota Immigrant Freedom Network; NAACP; National Advocacy Center of the Sisters of the Good Shepherd; National Association of Latino Elected Officials; National Association of Social Workers; National Council for Community and Education Partnerships; National Council of La Raza; National Health Law Program; National Immigration Law Center; National Korean American Service & Education Consortium; National Latina Health Network National Organization for Women.

National Network for Arab American Communities; National Network to End Domestic Violence; National Network to End Violence Against Immigrant Women; National Partnership for Women & Families; National Puerto Rican Coalition; New York Asian Women's Center; New York Immigration Coalition; OCA Greater Seattle Chapter; PeaceAction Montgomery; People for the American Way; Presbyterian Church (USA); Resource Center of the Americas; Rio Grande Centers, Inc.; SEIU Local 21—Louisiana; SEIU Local 32BJ; Service Employees International Union; Sexual Assault Services Organization; South Florida Jobs with Justice; Southeast Asia Resource Action Center; SSG/PALS for Health Program—SSG/ALAS para tu Salud.

Tahirih Justice Center; Teachers of English to Speakers of Other Languages, Inc.; The American-Arab Anti-Discrimination Committee; The California Pan-Ethnic Health Network; The Fair Immigration Reform Movement; The Korean American Resource & Cultural Center—Chicago; The Mexican American Legal Defense and Educational Fund; The National Asian Pacific American Women's Forum; The National Capital Immigration Coalition; UFCW Region One; UNITE HERE; United Methodist Church, General Board of Church and Society; WA State Coalition Against Domestic Violence; Women's Committee of 100; YKASEC—Empowering the Korean American Community—New York.

Mr. FRIST. Mr. President, we have had a good process to this point on the immigration bill. I thank the bill managers for their hard work. We are now, as I outlined this morning, in our final week prior to our recess. We have a lot of legislative and executive items we need to complete before that recess. Therefore, in a moment, I will be filing cloture on the immigration bill to ensure we will complete action before the Memorial Day recess, by the end of this week. In doing so I hope we can still have a fair process and continue to work through amendments.

There are a number of germane amendments that may be in order postcloture. I hope Senators will have the opportunity to have votes on them.

Having said that, we also have a lengthy list of important executive nominations that I will be discussing with the Democratic leader. It is my hope we can reach time agreements on these so we can schedule those nominations for votes this week, as well.

One of the nominations we will consider is the nomination of Brett Kavanaugh to be a U.S. circuit court judge. I understand we would not be able to reach a time limit for that nomination for this week. Therefore, it

is my intention to file cloture on that nomination, as well.

#### CLOTURE MOTION

I now send a cloture motion to the desk on the comprehensive immigration bill.

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

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 414, S. 2611: a bill to provide for comprehensive immigration reform and for other purposes.

William H. Frist, Arlen Specter, Larry Craig, Mel Martinez, Orrin Hatch, Gordon Smith, John Warner, Pete Domenici, George V. Voinovich, Ted Stevens, Craig Thomas, Thad Cochran, Judd Gregg, Lindsey Graham, Norm Coleman, Mitch McConnell, Lamar Alexander.

Mr. FRIST. I ask that the live quorum under rule XXII be waived.

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

#### EXECUTIVE SESSION

#### BRETT M. KAVANAUGH TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

Mr. FRIST. I now move to proceed to executive session and the consideration of Calendar No. 632, the nomination of Brett Kavanaugh.

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

The clerk will report.

The assistant legislative clerk read the nomination of Brett M. Kavanaugh, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

#### CLOTURE MOTION

Mr. FRIST. I send a cloture motion to the desk.

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

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 632, the nomination of Brett M. Kavanaugh, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit.

Bill Frist, Arlen Specter, Saxby Chambliss, Larry Craig, Mel Martinez, Elizabeth Dole, Johnny Isakson, Pat Roberts, Ted Stevens, Craig Thomas, Thad Cochran, Chuck Grassley, Judd Gregg, Tom Coburn, Richard Shelby, Lindsey Graham, Orrin Hatch.

Mr. FRIST. I ask unanimous consent the live quorum be waived, and the Senate resume legislative session.

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

#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

#### KAVANAUGH NOMINATION

Mr. FRIST. Mr. President, the last action was filing cloture on the nomination of Brett Kavanaugh, the President's nominee for the DC Circuit Court of the Appeals. I have been discussing with the minority leader the nomination this morning and over the course of the day and will continue to work with him as we try to reach a time agreement with respect to getting an up-or-down vote later this week. It is because we have not been able to agree to that, that I filed cloture to ensure we have a vote on this nomination.

I expect the full Senate to vote on this nomination. I don't know exactly what the schedule will be. It will depend on the outcome of the immigration bill.

I did have the opportunity to meet with Mr. Kavanaugh today. He is an outstanding candidate, a candidate who has stellar credentials, both in the private sector and the public sector, working as counsel and adviser to the President. He has had a distinguished legal career that has had him argue before the Supreme Court and appeals courts around the country. He is a graduate of Yale University and Yale Law School where he served on the law journal. He has, on three separate occasions, received the American Bar Association stamp of approval.

He was nominated 3 years ago. He has waited 3 years for the vote we will have later this week, for that fair up-or-down vote. It is time the Senate fulfills its constitutional duty, the advice and consent, by giving Mr. Kavanaugh that vote he deserves. I look forward to moving ahead on his nomination and upholding the confirmation process.

#### COMPREHENSIVE IMMIGRATION REFORM ACT OF 2006—Continued

Mr. FRIST. Mr. President, I will be closing shortly, but I do want to comment briefly on the immigration bill today. I want to make a few remarks on where we are and then where we will be going.

Mr. President, we began debate on the comprehensive immigration reform before the Easter recess. The majority was at that time set to strengthen the underlying bill by having debate and amendment on the underlying bill to be able to toughen the border security aspect, but at the 11th hour, the other side said: No, we are not going to allow that open debate and amendment process. So what had come to the floor under the leadership of Chairman SPEC-

TER was a bipartisan bill that did need continued work, and that bipartisan effort was scuttled for a period of time.

The Democratic leader and I agreed to a process whereby we could bring that bill back to the floor, which was the beginning of last week, where we, in a bipartisan way, would have that opportunity to offer amendments and attempt to improve or adjust or modify that bill. That is the process we are in the middle of right now.

I am pleased where we are today, but as I said 2 weeks ago or 3 weeks ago, we do need to complete this bill before the Memorial Day recess. Resuming consideration in the early part of last week, we have made real progress. And I do not know the exact number of amendments, but we have had amendments every day come to the floor for those up-or-down votes from both the Republican and the Democratic side of the aisle.

We allowed discussion and debate, and I think the country's understanding of this legislation, which is complex, has improved over the course of the several weeks we have had it on the floor. We are all looking closer at what is in the underlying bill, with the proposing of amendments to modify that, and having good debate—Democrat and Republican—on the issue.

The more time we spend with it, the more time we come to understand there are some very good things about the bill, things that still need some correction. And we will have the opportunity to do that, with the cloture motion filed tonight, over the course of voting in the morning, tomorrow afternoon, Wednesday over the course of the day, and once cloture is in effect, still have germane amendments come to the floor. So that process needs to continue. What it will do is allow us to complete that bill before Memorial Day.

We have had a number of amendments that have been interesting to watch as we have gone forward. Mr. SESSIONS, the Senator from Alabama, had an amendment early on to strengthen our southern border, to build those 370 miles of triple-layered fence, and 500 miles of vehicle barriers at strategic locations—a clear-cut improvement on the bill, strengthening the bill along the border consistent with our first priority; that is, to secure that border.

The Senate also approved the amendment by Senators KYL, GRAHAM, CORNYN, and ALLEN to close a loophole in the bill that would allow criminal aliens to obtain legal status. Once people looked at that, they said that is only common sense. Again, it became overwhelmingly supported in a bipartisan way—again, an important demonstration of why it was important to have open debate and amendment. That amendment clarifies that any illegal alien who is ineligible for a visa or who has been convicted of a felony or three misdemeanors is ineligible for a green card—again, just common sense.

Another commonsense issue of national cohesion that really hits at the heart of what makes this country great was when the Senate voted in favor of an amendment by Senator INHOFE to require that English be declared our national language of the United States. As people listened to that and digested what it meant, people said: Well, of course English is a necessary tool for every aspiring American to be successful and to join the mainstream of American society.

That is just an example of a few of the amendments. Again, we have considered a number of amendments, and we will consider a number more as we go forward.

It was last October when I said we would start with border security and we would build out a comprehensive approach to this very challenging problem of thousands—indeed, hundreds of thousands—of people coming across our borders illegally and millions working in this country illegally and many taking advantage of our social services illegally in this country. So we have made real progress—again starting in October—and we will complete that process by the Memorial Day recess, with the action I took tonight.

Mr. President, given our policy meetings tomorrow afternoon, I now ask unanimous consent that the filing deadline under rule XXII be extended until 2:30 p.m. on Tuesday.

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 of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### HONORING OUR ARMED FORCES

SERGEANT JAMES A. SHERRILL

Mr. MCCONNELL. Mr. President, I come to the floor today to reflect on the tremendous sacrifice and dedication displayed on a daily basis by our country's soldiers. In particular, I wish to call to my colleagues' attention the story of one young man who laid down his life defending our country.

While words cannot lessen the anguish of those who knew and loved him, they can illuminate his heroism and sacrifice. So it is entirely appropriate that we pause today to remember and celebrate the life of SGT James A. Sherrill of Ekron, KY.

Sergeant Sherrill served in the Kentucky Army National Guard's 2113th Transportation Company based out of Paducah, KY. Tragically, he died in Bayji, Iraq, on April 3, 2005, as he and his fellow soldiers were escorting a supply convoy. An improvised explosive device detonated near his military vehicle. He was 27 years old.

For his valorous service, Sergeant Sherrill was awarded the Bronze Star Medal and the Purple Heart. He had previously received both the Army Good Conduct Medal and the Armed Forces Reserve Medal, and he was awarded the Kentucky Distinguished Service Medal, the second highest honor that the Commonwealth of Kentucky can bestow.

James moved around the country a bit growing up, but while he was still young, the Sherrill family settled in Kentucky—Ekron, to be precise, a small town of a few hundred people in Meade County and the birthplace of legendary Baseball Hall of Famer Pee Wee Reese. In Ekron, James and his younger brother B.J. would grow up together and become well known throughout the community.

The Sherrills are a close-knit family. William "Buddy" Sherrill and his wife Beatrice, two soft-spoken people, have a lifetime of memories of their son James. William and Beatrice raised James and B.J. to love others, respect authority, and to be true gentlemen.

Being the older brother, James took his role as his brother's keeper seriously—most of the time. Beatrice recalls, however, when James and B.J. were still very young, one time when B.J. imagined himself to be the superhero Batman. To inaugurate his career as a caped crusader and to strike fear in the hearts of criminals, B.J. decided to jump out a window.

But heights can be intimidating, especially to a small child. Even one wearing a cape and a mask. So just as he was about to jump, B.J. hesitated.

Noticing his younger brother sitting on the edge of the windowsill in the Sherrill home, James decided it was up to him to help his brother out the only way he knew how. So James came up behind B.J. and gave him the push he wasn't looking for.

Asked why he had just pushed his brother out the window, James looked up at his parents and told them sincerely he was only "trying to help his brother." Thankfully, no one was seriously hurt, and James's understanding of how best to help others, shall we say, "evolved" over time.

A few years later, James found success on the football field. He soon became cocaptain of the Meade County High School varsity football team. His drive on the field spilled over into the weight room, where he broke several of his school's weightlifting records.

James's greatest moments on the field came his senior year with brother B.J., then a sophomore, also on the team. James played fullback, blocking opponents and creating holes for his ball-carrying brother, who played halfback. Over the course of the season, this one-two brotherly combination would amass an outstanding record. "Our whole community knew him because of [the] sports he played," B.J. said of his brother James.

Beyond the yards gained or the touchdowns scored, this portrait of one

brother leading the way for the other illustrated the relationship the two shared throughout James's life. William Sherrill said:

B.J. always looked up to James. They were best friends. Losing James has been particularly hard on B.J. . . . he's more serious now.

James was a protector, not only for B.J. but for others he helped mentor, such as the children at his local church and his fellow soldiers in Iraq. Given the choice between going to college or joining the military, James opted for the Marines, where he expanded his skills, traveled the world, and developed his faith.

After completing his tour with the Marines, James returned home to Ekron, where he decided to continue serving his country and joined the Kentucky National Guard. He also became a student at Elizabethtown Community College, hoping to pursue a career in law enforcement, and he met the love of his life.

James used his experience from the Marines to, as his father put it, "become a leader that everyone looked to." He always emphasized the importance of being focused on the mission at hand to his squad. He constantly double-checked his team to make sure they all knew their roles. James knew he and his fellow soldiers would be navigating some of the most deadly stretches of highway in the world.

Whenever he called home, however, he said the dangers of his job did not worry him. James's father recalls that his son felt at peace with what he was doing, even though he knew he may never make it home. William Sherrill attributes this serenity to his son's faith.

James reached his final resting place on April 12, 2005, in a small plot of land adjacent to the Zion Grove Baptist Church in Ekron. Sergeant Sherrill was buried with full military honors. Later that afternoon, William Sherrill rested on the front porch of a neighbor's home to reflect on the day's events.

Eventually, he looked up to see, stretched out across the sky, one of the brightest rainbows he had ever witnessed. This magnificent rainbow seemed to spring up from the Sherrill family home, stretch into the sky, and then arc downward, delicately landing near the cemetery of Zion Grove Baptist Church.

Every day when William Sherrill drives his truck home from work, his route usually takes him past James's grave site. And every day he is sure to slow his vehicle and blow his son a gentle kiss.

I am grateful to William and Beatrice Sherrill today for sharing their stories of James with us. We are thinking of James's brother, B.J., today as well.

Across the Nation, other families understand the simple gesture of blowing a kiss, for they, too, have lost a loved one in the line of duty. As a nation, we all grieve with these families. Yet we feel a sense of pride as well; pride at

the notion that thousands of men and women of courage have volunteered to wear the uniform and face danger in order to protect America.

SGT James Sherrill demonstrated his courage twice over, first by joining the Marines, and again by joining the Kentucky National Guard. His devotion and his sacrifice were a gift to the rest of us. We must treasure that gift.

Mr. President, I ask my colleagues to keep the family of SGT James Sherrill in their thoughts and prayers. They will certainly be in mine.

LANCER CORPORAL DAVID GRAMES-SANCHEZ

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave young man from Fort Wayne. David Grames-Sanchez, twenty-two years old, was killed on May 11 in a tank wreck near Karmah, 50 miles west of Baghdad in the Anbar province. Leaving his life and family behind him, David risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

According to his family, joining the Marine Corps had been a lifelong dream of David's and he loved being in the Corps. An Elmhurst High School wrestler remembered for his infectious smile, David followed the family tradition of joining the service. Both his grandfathers had served, and despite the objections of some of his relatives, David enlisted shortly after his high school graduation. His aunt told a local news outlet, "I tried to talk him out of (joining the Marines) because I knew something might happen to him. But he was very independent and loved his country. It seems apparent now that David was called by God and his country to lead a purpose-driven life. He wanted to make a difference." David was on his second tour of duty in Iraq when he was killed.

His death came as a second blow to his community, as David was the second graduate of his high school to die in Iraq. Six months ago, a roadside bomb attack killed Army Corporal Jonathan Blair, a 2002 Elmhurst graduate.

David was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 2nd Tank Battalion, 2nd Marine Division, 2nd Marine Expeditionary Force, Camp Lejeune, N.C. This brave soldier leaves behind his wife, Lindsay Walsh; his 2-year-old son, Corbin; his father, David Grames, and father's fiancée, Lory Burton; his mother, Guadalupe Sanchez; his sister, Emily Grames; and numerous other relatives.

Today, I join David's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of David, a memory that will burn brightly during these continuing days of conflict and grief.

David was known for his dedication to his family and his love of country. Today and always, David will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring David's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of David's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of David Grames-Sanchez in the official RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like David's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with David.

SERGEANT LONNIE CALVIN ALLEN, JR.

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Army SGT Lonnie Calvin Allen, Jr., from Nebraska. Sergeant Allen died when an improvised explosive device detonated near his vehicle while on patrol northwest of Baghdad on May 18. He was 26 years old.

Sergeant Allen grew up in Bellevue, NE, and graduated from Bellevue East High School in 1998. After 2 years at Northeastern Junior College in Sterling, CO, he enlisted in the U.S. Army. After his first enlistment was completed, Sergeant Allen reenlisted and was deployed to Iraq in August 2005. He was a member of the 10th Mountain Division based out of Fort Drum, NY. Sergeant Allen will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans such as Sergeant Allen are currently serving in Iraq.

Sergeant Allen is survived by his wife Birgit, and parents, Lonnie and Sallie Allen. Our thoughts and prayers are with them at this difficult time. America is proud of Sergeant Allen's heroic service and mourns his loss.

I ask my colleagues to join me and all Americans in honoring Sergeant Lonnie Calvin Allen, Jr.

UNLV PRESIDENT CAROL HARTER

Mr. REID. Mr. President, I rise today to recognize an outstanding citizen from my home State, Dr. Carol C. Harter. As the longest serving president in the history of the University of Nevada, Las Vegas, Carol has brought a real vision for Nevada's future to her work and to our communities.

On June 30, 2006, Carol will step down president of the university and leave behind an extraordinary legacy of accomplishments. Under her direction, the university created 100 degree programs. She was instrumental in the creation of the William S. Boyd School of Law, the School of Architecture, and the School of Dental Medicine. She increased the size of the university, adding to the number of buildings, programs, students, and faculty. During Carol Harter's tenure as president, she raised over \$556 million in gifts and pledges, which accounts for more than 80 percent of all gifts received since the UNLV Foundation's inception in 1982.

Carol brought a style of leadership to the university that was both effective and inspirational. Her strength, vision, and compelling personality provided an example to her students, faculty, and the community. I am well acquainted with her abilities because I have had the privilege of working with her on numerous projects. One project that has great meaning to me personally was the founding of the School of Dental Medicine. Growing up, my family did not have access to good dental care, and I know what a tremendous impact the dental school's community outreach programs will have on families like mine.

Carol's dedication did more than simply benefit the university; her efforts improved the quality of life in Nevada. Under Carol's leadership, the university has grown to be an institution that attracts professionals and academics to Nevada, provides for a cultural meeting place, trains the minds of all who come through its doors, and raises the level of culture and society in our community. I wish her only the best as she continues her career as executive director of the Black Mountain Institute. Her many accomplishments as president of the University of Nevada, Las Vegas, will benefit the university and the residents of Nevada for years to come.

#### NATIONAL TRAILS DAY

Mr. REID. Mr. President, I rise today in recognition of National Trails Day, which will be celebrated on June 3. One of this country's greatest natural treasures is its trails. Trails offer an opportunity for people of all ages to recreate, exercise and explore the great outdoors. Oftentimes they are a reflection of our history—a link to our past that allows us to literally follow in the footsteps of those who came before us.

Since its inception in 1993, National Trails Day has increased the awareness

of trails in our communities, and it has also provided support to the volunteer trail clubs that do so much to enhance the access and enjoyment of our trails. I extend my thanks to the volunteers who put forth so much time, passion and energy into maintaining the 200,000 miles of trails we are fortunate to call our own.

The theme for this year's National Trails Day celebration is "Experience Your Outdoors." From hiking and climbing to biking and horseback riding, there are many things we can do to experience our outdoors. I encourage all Americans to participate in National Trails Day and truly enjoy their outdoor experience.

I know that many of my fellow Nevadans will be enjoying National Trails Day this year with celebrations scheduled at The John Day Trail and the Greenhorn Cutoff of the California National Historic Trail in Elko, The Pony Express Trail in Eureka, The Tahoe Rim Trail at Lake Tahoe, Condor Canyon in Caliente and the Spring Mountains National Recreation Area in Las Vegas to name a few.

Nevada's trails are rich with history and uniquely beautiful. I invite you all to visit Nevada's trails and experience all that they have to offer.

#### CREATING OPPORTUNITIES FOR PUBLIC-PRIVATE PARTNERSHIPS FOR SMALL BUSINESSES

Ms. STABENOW. Mr. President, I wish to have included in the RECORD statements of support for S. 2588, the Health Care Access for Small Businesses Act, from all across the state of Michigan. I am proud to have support from organizations as diverse as providers, insurers, and elected officials.

The three share model is an innovative community-based concept that has worked across the United States from California to Arkansas, of course, to Michigan. The name, "three share" stems from the program's payment structure. Premiums are shared between the employer who pays 30 percent, the employee who pays 30 percent and the community which covers the remaining 40 percent of the cost.

I ask unanimous consent that the support letters be printed in the RECORD.

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

ASCENSION HEALTH,  
St. Louis, MO, April 28, 2006.

Hon. DEBBIE STABENOW,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR STABENOW: I am writing in strong support of the legislation you recently introduced, S. 2588, the "Health Care Access for Small Business Act of 2006," that would expand health insurance coverage for employees who work for small companies through a "Three-Share Program" modeled on a successful initiative first developed in Michigan. As you know, Ascension Health—through our sponsored hospitals and health systems in Michigan that include Standish Community Hospital; Borgess Health Alliance in Kalamazoo; St. Joseph Health System in Tawas City; Saint Mary's Medical

Center in Saginaw; Genesys Health System in Flint; and St. John Health in Detroit—has a significant presence in Michigan. We believe your legislation will help us in our work at the local level in Michigan and across the country to achieve 100% access to health care.

Over the past 6 years, Ascension Health has fostered the development of local community coalitions to expand access and improve the quality of care provided to the uninsured. Our experience led to the development of a 5 step model to expand access to care. Step One is to build a formal infrastructure that can support safety net services for the uninsured. Step Two is to fill service gaps, such as dental prescription drugs, and mental health services. Step Three is to develop and implement a care model for the uninsured that emphasizes coordinated services throughout the continuum of care. Step Four is to recruit physicians to provide medical homes and specialty care for the uninsured. Step Five is to get funding to ensure the long term sustainability of the initiative.

Since 2000, community coalitions in Michigan with an Ascension Health partner have received over \$11 million in federal support through the Healthy Community Access Program (HCAP) and approximately \$2 million in matching funds from Ascension Health. These funds have been used to develop and implement many of the steps identified above to achieve 100% access. We believe your legislation would help us reach the final step of achieving long term sustainability by providing small business, owners and their workers an opportunity to afford insurance coverage.

We enthusiastically support your legislation. Please let us know what we can do to further help you in your efforts to expand coverage for the 47 million Americans without health insurance, the additional 40 million Americans who go uninsured during some part of the year, and the additional 80 million Americans who are only partially covered.

Sincerely,

ATHONY R. TERSIGNI,  
President and Chief Executive Officer.

UPPER PENINSULA HEALTH PLAN,  
Marquette, MI, April 20, 2006.

Hon. DEBBIE STABENOW,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR STABENOW: I am writing to express my organization's support for Senator Stabenow's SB 2588, "Health Care Access for Small Business Act of 2006." SB 2588 will provide grants to eligible "three-share programs" for the start-up and operation costs of providing specific health care benefits to eligible covered individuals for a period of five years.

A "Three-Share Program" is a basic plan for health care coverage that brings together employers, workers without health care coverage and outside funding to create a health care coverage plan for those workers who have no other access to health insurance. The plan encourages employers (formerly not offering insurance coverage) to assist in the payment of modest fees for their employees' health coverage. Additional private, state, and/or federal funds are required to augment fees paid by other parties to complete the reimbursement of care. This transforms the "slow pay/no pay" patients into "assuredly-pay/discount-pay" patients.

Presently in Michigan, 1.2 million people do not have health care coverage. Sixty percent of the 1.2 million are employed and work full or part-time. Fifty percent of the 1.2 million are employed by small businesses and are not offered health care benefits. Michigan has seen two successful and separate community initiatives that began offer-

ing health care coverage for employed, low-income persons using the three-share model: HealthChoice in Wayne County (1994) and Access Health in Muskegon County (1999). Both are received grant monies for their start-up and operation costs.

The three-share program is a successful model for other regions to replicate. However, without start-up seed money in which to build community involvement, determine market needs, and establish administrative systems to carry out operational functions, these programs cannot get off the ground. In order to begin solving the health care crisis on a local level, communities need monetary supports in which to fund initiatives such as three-share programs.

Michiganders want access to high-quality, affordable health care. Thank you for initiating this legislation to help them receive it.

Sincerely,

DENNIS H. SMITH,  
President & CEO.

TRINITY HEALTH,  
Novi, MI, May 12, 2006.

Hon. DEBBIE STABENOW,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR STABENOW: I am writing to congratulate and thank you for your legislation, the Health Care Access for Small Businesses Act of 2006, and to offer Trinity Health's support and assistance in its passage.

As you know, Mercy General Health Partners, one of Trinity Health's twelve hospitals in Michigan, was instrumental in the creation of Access Health, one of the nation's most successful community-initiated programs for the working uninsured. Access Health now has a seven year track record. We are proud to be associated with Access Health, and appreciate your past contributions in helping to make it the success that it is.

The Health Care Access for Small Businesses Act of 2006 will help communities across the nation replicate the Access Health model, and thus become an important piece of the solution for the country's millions of uninsured individuals.

Specifically, your bill would leverage a federal contribution with community funds to help small businesses and their employees purchase a health coverage product developed by the community. In addition to reducing the local uninsured population, increased access to health care in a community will result in community-wide economic benefit. Employers in the community will experience less health care cost-shifting, and increased productivity and employee retention. With greater emphasis on preventive and chronic care, communities' uninsured populations will become less of a financial burden on state and local budgets.

Thank you for your very thoughtful effort to help communities, small business, and to ensure that the uninsured are not forgotten. We look forward to working with you on this national effort.

Sincerely,

MARSHA J. CASEY,  
President, Michigan Ministries.

Detroit, MI, May 9, 2006.

Hon. DEBBIE STABENOW  
U.S. Senate,  
Washington, DC.

DEAR SENATOR STABENOW: I am writing to express Wayne County's strong support for S. 2588, the Health Care Access for Small Businesses Act of 2006. As you know, Wayne County, Michigan has long been on the forefront of developing innovative health coverage for small business employees and the uninsured. Our experience demonstrates that

these programs have a meaningful impact on employee retention and well-being and provide a much-needed safety net to scores of workers in Wayne County. As such, we appreciate Senator Stabenow's leadership and strongly support the authorization of federal grant programs for pilot demonstrations that will help ensure the establishment and the continued success of three-share health coverage programs across the country.

The "three-share" programs developed in Wayne County provide affordable coverage and quality medical care to working uninsured residents. As you are aware, the two primary three-share programs operating in Wayne County are the Health Choice program and the Four Star Program. Under both programs, workers receive coverage for primary health care, prescription drugs, emergency and urgent care, hospital care, and diagnostic services. Employers, employees, and the County each pay roughly one-third of the premium cost of the coverage, which is less than \$60 per month for employees. There are currently 607 employers, including 3,700 members, participating in Health Choice and approximately 40 businesses, including 150 members, participating in Four Star.

These three-share programs not only provide coverage to individuals who badly need it; but they also help small businesses attract and retain skilled employees. In Wayne County, roughly 280,000 persons are uninsured, many of whom are employed by small businesses that cannot afford to bear the cost of providing a health insurance benefit to their employees. The three-share programs operating in Wayne County provide these employers with a low-cost way of providing health insurance to their workers, which in turn reduces sick days, builds employee morale and loyalty, and ultimately improves our local economy.

Federal grants that would be authorized by S. 2588 could enable Wayne County to expand these programs to serve more persons or include additional benefits. Currently, Wayne County's three-share programs only cover employees and their spouses, as the County is unable to provide coverage to the children of employees. Funding could also support the County's outreach efforts to eligible employers, including reaching out to the Hispanic and Arab American communities to ensure awareness of the program and how it operates. Finally, it is possible that federal grant money would allow the County, working with its underwriters to lower the portion of premiums that employers have to pay, thus providing an incentive to additional small businesses to participate in the program. Numerous other counties would similarly benefit from a federal grant program for three-share programs.

Wayne County's programs have enhanced access to health services for the most needy in our community and we commend your leadership and vision for seeking expanded nationwide access to this model. We are confident other municipalities will find your legislation attractive as well. Expanding insurance opportunities for our nation's uninsured and providing small businesses with a meaningful way of offering health coverage to their employees are significant challenges to many, if not most, municipalities. Three-share programs can positively impact other counties and cities nationwide so that both employers and employees benefit from the continued strength of these programs. Thank you again for all your leadership and all your efforts to address pressing national health coverage access problems.

Sincerely,

ROBERT A. FICANO,  
Wayne County Executive.

OAKWOOD HEALTHCARE, INC.,  
Dearborn, MI, May 16, 2006.

Hon. DEBBIE STABENOW,  
U.S. Senator,  
Washington, DC.

DEAR SENATOR STABENOW: Thank you for introducing Senate Bill 2588 that certifies and supports programs to provide uninsured employees of small businesses access to health coverage.

As the Chief Executive Officer of a health system in a market experiencing high unemployment and increasing numbers of uninsured patients among the employed, I am hearing of many individuals avoiding visits to their healthcare provider due to lack of insurance. This has resulted in significant decreases in hospital admissions in Southeast Michigan during the past six months.

Of course, the underlying health problems of these uninsured individuals are not going away. We fully expect to see many of them in our Emergency Room when their condition reaches a crisis stage.

While the problem of the uninsured is entrenched and growing, there are potential solutions. Our governor in Michigan is working to create a statewide plan that would cover significant numbers of uninsured residents. While we support this work, we also believe that development of shared resource insurance programs could very quickly begin addressing the problem in a number of local markets.

Oakwood has already established one such program, known as the "Four-Star" health plan, in which Oakwood Healthcare System, St. John Health System, Henry Ford Health System, and the Detroit Medical Center, partner with the Wayne County Health Department to provide coverage to qualified individuals who share the cost with their employer and the county.

We believe this program and others like it offer a timely and viable approach to providing health care access to the uninsured employed by small businesses. It is exactly the approach described in S. 2588.

We welcome the support this bill would provide to build and market plans like ours. While we believe such three-share plans offer the right solution to many employers and their employees, they require significant startup investment. The grants called for in Section 2201 would do much to encourage additional three-share programs, thus providing access to health care for thousands of employed individuals while adding to the viability and competitiveness of many small businesses. We heartily endorse passage of this legislation.

Sincerely,

GERALD D. FITZGERALD,  
President and CEO.

WWW.COVERTHEUNINSURED.ORG,  
Dearborn, MI, May 2, 2006.

Hon. DEBBIE STABENOW,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR STABENOW: I want to thank you for developing and introducing the "Health Care Access for Small Businesses Act of 2006." I support efforts to expand coverage for the uninsured, and I am pleased that your legislation is modeled on the successful multi-share program in Muskegon that provides affordable health insurance options for small businesses. It is this kind of program that should be replicated to reduce the number of working uninsured in our country.

I hope you will find other ways to bring the urgent issue of the uninsured to the forefront of the national political agenda. Nearly 46 million Americans are living without health insurance, including more than 8 million children. As you know, more and more

Michigan families are facing the hardship of being uninsured as cutbacks in manufacturing leave them unemployed or in jobs without health benefits.

The economic impact of the growing uninsured is most evident for states and localities like ours trying to attract job-creating investments. Small businesses often find that insurance coverage for their employees is either unaffordable or simply unavailable. Large employers that do provide health insurance are bearing many of the uninsured treatment costs, which are shifted to them through steeply rising premiums. The result is an uneven playing field for employers.

More importantly, the uninsured often receive care that is "too little too late." Minor illnesses become more severe because care is delayed. The Institute of Medicine has determined that thousands of uninsured people die each year because of this delayed care.

I hope you will work to find bipartisan support for the "Health Care Access for Small Businesses Act of 2006," and that you can continue to support other legislative initiatives on behalf of the uninsured. "Coverage and access for all" makes economic sense because it will mean more efficient and effective care, a healthier population, and a more competitive local economy. More importantly, coverage and access for all is the right thing to do for our community. In a just society, no one should be left behind.

Thank you for your efforts on behalf of the uninsured.

Sincerely,

STANLEY GOLDBERG.

#### ADDITIONAL STATEMENTS

#### IN RECOGNITION OF 40 YEARS OF FAITHFUL SERVICE TO THE ELIEZER CHURCH OF OUR LORD JESUS CHRIST

• Mr. LEVIN. Mr. President, I would like to take this opportunity to recognize two distinguished religious leaders in Michigan, Pastor Raymond H. Dunlap, Sr. and his wife, Mother Lillian B. Dunlap. On May 21, 2006, they will be honored for their service to The Eliezer Church of Our Lord Jesus Christ of Flint, MI.

Bishop Dunlap, known by many as a "Man with a Vision," entered the ministry in Columbus, OH in 1954 under the guidance of his father, the late Bishop Sandy Dunlap. In 1966, he became the pastor of the newly established Eliezer Church of Our Lord Jesus Christ in Flint, MI. Bishop Dunlap was appointed district elder of the Northern District in 1977 and 3 years later was named junior bishop at the International Convocation. Bishop Dunlap's faithfulness, leadership, and service lead him to be consecrated bishop in 1983. Bishop Dunlap directed the creation of 13 Churches of the Lord Jesus Christ in Michigan, as well as 3 in Minnesota.

Over the years, Bishop Dunlap has founded several programs, including the Michigan Home Builders, the Apostolic Instructions Deliverance Station, and Anti-Juvenile Delinquency. He also organized the Freedom Train Outreach and was editor of the International Church of Our Lord Jesus Christ of the Apostolic Faith. Through these community-based efforts, Bishop Dunlap



has provided much needed assistance and leadership to those most in need.

Bishop Dunlap's wife, Mother Dunlap, has dedicated a great deal of her service to youth ministry. Her work with the Youth Department, Sunday School Department, Music Department, as well as the Church of Our Lord Jesus Christ Bible Institute Extension has allowed her to touch the lives of children and adults alike. In addition, she has ministered her faith through several literary contributions, including "Words From the Lord For the Women," "Go To Sleep With Mother's Prayer," and "Mountain Top Prayers." Mother Dunlap's faith has been an inspiration not only to her church but to the entire community.

Bishop and Mother Dunlap have delivered their spiritual message through radio ministry for several years. Bishop Dunlap ministers through "The Hour of Power, for Prayer or to Share". Mother Dunlap extends her message through "The Extension of the Hour of Power—Sleep Well With Mother's Prayer."

I know my colleagues join me in congratulating Bishop Dunlap and Mother Dunlap on their service to the Flint community and on their many achievements over the years. I am pleased to offer my best wishes to them on the 40 years of faithful service at the Eliezer Church of Our Lord Jesus Christ and for many more years of good health, happiness, and service to the community.●

#### MUNSTER HIGH SCHOOL RECEIVES WE THE PEOPLE CENTRAL STATES REGION AWARD

● Mr. LUGAR. Mr. President, I rise today to congratulate Munster High School's We the People class on being awarded the Central States Region Award at the We the People: The Citizen and the Constitution national competition held April 29–May 1 in Washington, DC. I am pleased that the members of the Munster High School We the People class were among the 1,200 students from across the country that participated in this important event specifically designed to educate young people about the U.S. Constitution and Bill of Rights.

I join family, friends, and the entire Munster High School community in recognizing the hard work and dedication of the following members of the Munster High School We the People class: Sara Brown, Sara Farooq, Scott Goodwin, Lauren Hudak, Hannah Huebner, Casey Jedrzejczak, Alexis Jeter, Joseph Kasenga, Emily Lyness, Shobha Pai, Samantha Skrobot, and Matt Westerlund. I also wish to commend Michael Gordon, the teacher of the class, who committed his time and talent to prepare the students for the national competition.

The success of the Indiana We the People program is also attributed to the hard work of Erin Braun and others at the Indiana Bar Association, as well as Stan Harris and Cathy Bomberger.

The We the People national competition is a 3-day academic competition that simulates a congressional hearing in which the students "testify" before a panel of judges on constitutional topics. Students are able to demonstrate their knowledge and understanding of constitutional principles as they evaluate and defend positions on relevant historical and contemporary issues.

The We the People: The Citizen and the Constitution program is administered by the Center for Civic Education and funded by the U.S. Department of Education through congressional appropriations. I am proud to note that between 2002 and 2005, Indiana had 147,497 students participate in the programs offered through the Center for Civic Education, with 7,074,896 participating nationally.●

#### MESSAGE FROM THE HOUSE

At 1:25 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5385. An act making appropriations for the military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2007, and for other purposes.

#### ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

H.R. 1499. An act to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

The message further announced that pursuant to section 214(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), and the order of the House of December 18, 2005, the Speaker appoints the following member on the part of the House of Representatives to the Election Assistance Commission Board of Advisors to fill the existing vacancy thereon: Mr. Thomas A. Fuentes of Lake Forest, California.

#### MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5385. An act making appropriations for the military quality of life functions of the Department of Defense, military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2007, and for other purposes; to the Committee on Appropriations.

#### PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

##### HOUSE CONCURRENT RESOLUTION NO. 109

POM-321. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to adopt the Senate Appropriations Committee amendment for fishing industry recovery under the Magnuson-Stevens Fishery Conservation and Management Act to H.R. 4939 making emergency supplemental appropriations for the fiscal year ending September 30, 2006; to the Committee on Appropriations.

Whereas, Louisiana's fishing industry is second only to Alaska's in terms of volume with annual landings in excess of 1.2 billion pounds valued at more than three hundred nine million dollars; and

Whereas, Hurricanes Katrina and Rita in August and September of 2005 virtually destroyed the fishing industry in the state of Louisiana, which resulted in the United States Secretary of Commerce, Carlos Guterrez, issuing a formal fishery failure and fishery resource disaster declaration on September 9, 2005, as a result of Hurricane Katrina and a second such declaration on October 4, 2005, as a result of Hurricane Rita; and

Whereas, the United States Congress is currently working on development of the Katrina Supplemental Appropriations Act to which the Senate Appropriations Committee attached an amendment from the Department of Commerce, National Oceanic and Atmospheric Administration for \$1.085 billion for "Operations, Research, and Facilities" under the Magnuson-Stevens Fishery Conservation and Management Act with such funds to remain available until September 30, 2008; and

Whereas, such appropriation is to be used for all aspects of the fishing industry including technical assistance for the states from the National Marine Fisheries Service for oyster bed and shrimp ground rehabilitation; assistance from the National Oceanic and Atmospheric Administration for rebuilding coastal communities; planning efforts to reduce capacity and effort; seafood promotion for Gulf seafood; job retraining for displaced fisheries workers; replacement of fishing gear; reestablishment of docks, icehouses, fuel centers, processing and marine support facilities, piers, and warehouses; replacement of private infrastructure other than vessels; and research and cleanup and repaid activities; and

Whereas, such funding is vital to the recovery of the fishing industry in Louisiana and, indeed, to the recovery of coastal Louisiana generally; Now, therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to adopt the Senate Appropriations Committee amendment for fishing industry recovery under the Magnuson-Stevens Fishery Conservation and Management Act to H.R. 4939 making emergency supplemental appropriations for the fiscal year ending September 30, 2006; and be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-322. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to

taking such actions as are necessary to expedite the Federal Emergency Management Agency's (FEMA) reimbursement process and to make the reimbursement of accrued interest on loans part of its public assistance grants; to the Committee on Banking, Housing, and Urban Affairs.

#### HOUSE CONCURRENT RESOLUTION NO. 13.

Whereas, FEMA awards public assistance grants to state and local governments, Indian tribes, and certain private nonprofit organizations; and

Whereas, public assistance grants provide supplemental federal disaster assistance for debris removal, emergency protective measures, and the repair, replacement, or restoration of publicly owned facilities and facilities of certain private nonprofit organizations damaged by disasters; and

Whereas, since Hurricanes Katrina and Rita, more than one billion nine hundred million dollars have been allocated for public assistance grants, which equals the amount allocated to Florida in 2004 following its four hurricanes; and

Whereas, due to the extreme time delay in the receipt of these grants, certain organizations have taken out loans in order to stay in operation; and

Whereas, loans have also been used to fund the restoration of infrastructure to pre-disaster conditions; and

Whereas, the organizations' loans have been accruing interest which is not reimbursable through the public assistance grants; Now, therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to expedite the Federal Emergency Management Agency's (FEMA) reimbursement process and to make the reimbursement of accrued interest on loans part of its public assistance grants; and be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-323. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to requesting the President of the United States to direct the United States Attorney General and the Chairman of the Federal Trade Commission to investigate all potential price gouging, price fixing, collusion, and other anticompetitive practices related to gasoline prices; to the Committee on Commerce, Science, and Transportation.

#### HOUSE RESOLUTION NO. 182

Whereas, rapidly rising gasoline prices are rippling through the American economy and creating difficult financial situations for individual families and businesses. With crude oil prices hitting \$75 per barrel—an increase of more than 40 percent in less than a year—the country faces a great challenge. While there are numerous factors behind the escalating prices of oil to record levels, there are valid concerns across the country that there could be instances in which prices are being artificially increased in some situations because of activities that are not related solely to market forces; and

Whereas, the path from the oil field to the consumer is a long one. Refining, distribution, marketing, and storage are all processes that must operate above suspicion in order to assure the American people that the prices they pay are honest. Worries over price gouging, collusion, or other illegal activities can seriously undermine the public's trust; and

Whereas, it is essential that all efforts be made to ensure integrity in this critically

important element of our economy. The United States Attorney General and the Federal Trade Commission should take the lead in protecting the public from illegal activities. This vigilance must extend to refining; transportation of fuel by pipelines, marine vessels, and trucks; storage and marketing, including at the wholesale level; and commodity trading; and

Whereas, American consumers have every right to expect that markets are fair and that their governmental agencies and personnel are doing all they can to eliminate all illegal activities, including artificial spot shortages; Now, therefore, be it

*Resolved by the House of Representatives*, That we respectfully request the President of the United States to direct the United States Attorney General and the Chairman of the Federal Trade Commission to investigate all potential price gouging, price fixing, collusion, and other anticompetitive practices related to gasoline prices; and be it further

*Resolved*, That a copy of this resolution be transmitted to the Office of the President of the United States.

POM-324. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to formulate a sound energy policy that will provide for the long-term economic and national security needs of the United States of America; to the Committee on Energy and Natural Resources.

#### HOUSE CONCURRENT RESOLUTION NO. 116

Whereas, a constant, dependable supply of affordable energy is absolutely essential to the continued success and well-being of our nation; and

Whereas, the provision of adequate energy supplies is dependent on a rational energy policy which promotes conservation, prevents unreasonable taxation that would inhibit the competitiveness of United States energy producers against foreign-owned firms, and allows the full development of domestic energy sources in an ecologically sound manner; and

Whereas, the windfall profits tax has proven itself to be an impediment to domestic energy production, a barrier to the competitiveness of United States energy companies in the world market, and an unfair penalty on investors; and

Whereas, the windfall profits tax is a direct cause of unnecessarily high retail energy prices and increased dependence on foreign oil; and

Whereas, our national security and economic growth is imperiled by our growing dependence on foreign energy supplies, which could be reduced by the development of a wide array of domestic energy sources; and

Whereas, the exploration and development of all viable energy reserves in the United States is critical not only to our national economy but also to the redevelopment of the Gulf Coast economies decimated by natural disaster; and

Whereas, a report by the Investors Action Foundation indicates that a windfall profits tax would have a severe, negative economic impact on public employee trust funds which could lose as much as two hundred fifty-one million dollars a year in foregone gains; Now, therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take, with all due haste, such actions as are necessary to formulate a sound energy policy that will provide for the long-term economic and national security needs of the United States of America, which actions should include opposing any effort to establish a windfall profits tax; and be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-325. A House Joint Memorial adopted by the Legislature of the State of Idaho relative to demanding that the Federal Lands Recreation Act be repealed and that no recreational fees authorized under the Federal Lands Recreation Enhancement Act be imposed to use federal public lands in the state; to the Committee on Energy and Natural Resources.

#### HOUSE JOINT MEMORIAL NO. 14

Whereas, the Federal Lands Recreation Enhancement Act, H.R. 3283, 108th United States Congress, was introduced in the United States House of Representatives and would have authorized the United States Forest Service, the United States Bureau of Land Management, the United States Fish and Wildlife Service, the National Park Service, and the United States Bureau of Reclamation to charge visitor fees for recreation on publicly owned lands; and

Whereas, H.R. 3283 was not voted on separately in the United States House of Representatives and was not introduced in, did not have hearings in, and was not approved by the United States Senate, but instead was attached to the omnibus spending bill, H.R. 4818, by the 108th United States Congress, as an appropriation rider; and

Whereas, the 108th United States Congress enacted H.R. 4818, and the Federal Lands Recreation Enhancement Act is now codified as 16 U.S.C. sections 6801 through 6814; and

Whereas, the Federal Lands Recreation Enhancement Act includes criminal penalties and is substantive legislation that fundamentally changes the way public land in the state is funded and managed; and

Whereas, the concept of paying fees to use public land is contrary to the idea that public land belongs to the people of the state and is land where every person is granted access and is welcome, a concept that has been and should remain in place; and

Whereas, recreational fees constitute double taxation and bear no relationship to the actual costs associate with recreational use such as hiking, picnicking, observing wildlife, or scenic driving on state roads and public rights-of-way; and

Whereas, the fees imposed by the Federal Lands Recreation Enhancement Act are a regressive tax that places an undue burden on the people living in rural areas adjacent to or surrounded by large areas of federal land and discriminates against lower-income and working Idahoans by placing financial obstacles in the way of their enjoyment of public land; and

Whereas, the public land access fees in the Federal Lands Recreation Enhancement Act are controversial and are opposed by hundreds of organizations, several state legislatures and millions of rural Americans; and

Whereas, the Federal Lands Recreation Enhancement Act establishes an interagency pass that may be used to cover entrance fees and recreational amenity fees for federal public land and water, disregarding the substantially different ways in which national parks and other federal public land are managed and funded; and

Whereas, the limited means of expressing opposition to and the lack of public debate in the implementation of the fee program raises the concern that some citizens may be deterred from visiting and enjoying public land in the state and throughout the United States; and

Whereas, tourism is an important industry to the state, and the imposition of recreational use fees will have a negative effect

on state and local economies; Now, therefore, be it

*Resolved*, By the members of the Second Regular Session of the Fifty-eighth Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature of the State of Idaho demands that the Federal Lands Recreation Enhancement Act, which was enacted on December 8, 2004, be repealed and that no recreational fees authorized under the Federal Lands Recreation Enhancement Act be imposed to use federal public land in the state; and be it further

*Resolved*, That the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to be sent to the Honorable George W. Bush, President of the United States; the Honorable Richard B. Cheney, Vice-President of the United States and President of the U.S. Senate; the Honorable Gale Norton, United States Secretary of the Interior; the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; the Honorable Ted Stevens, President Pro Tempore of the U.S. Senate, the Honorable William H. Frist, Majority Leader of the U.S. Senate; the Honorable Harry Reid, Minority Leader of the U.S. Senate; the Honorable John Boehner, Majority Leader of the U.S. House of Representatives; the Honorable Nancy Pelosi, Minority Leader of the U.S. House of Representatives; and the congressional delegation representing the State of Idaho in the Congress of the United States.

POM-326. A resolution adopted by the Senate of the State of Michigan relative to memorializing the President of the United States and the United States Congress to take prompt action to provide relief from high gas prices; to the Committee on Energy and Natural Resources.

#### SENATE RESOLUTION NO. 61

Whereas, the average price for unleaded regular gasoline is 71 cents per gallon higher than this time last year; and

Whereas, this is the highest price gasoline has been since immediately after Hurricane Katrina in 2005. The President has instructed the Federal Trade Commission, the Justice Department, and the Energy Department to investigate whether the price of gasoline has been unfairly manipulated; and

Whereas, the average price for a barrel of oil recently topped \$75.00 for the first time in history. The President has called on Congress to take back some of the billions of dollars in tax incentives given to energy companies that are not needed in the face of record profits due to high oil prices; and

Whereas, this per-barrel price is approaching the inflation-adjusted highs of the late 1970s and early 1980s; and

Whereas, Michigan's manufacturing, agricultural, and tourism economies are negatively impacted by rising fuel costs; and

Whereas, the Legislature appropriated funds for the Department of Agriculture to add Motor Fuel Quality inspectors and to increase the number of gas pump inspections in the state of Michigan. These inspections help decrease the chance that consumers are being gouged at the pump and should continue so that our citizens get what they pay for; and

Whereas, there are many factors that have contributed to the recent rise in gasoline pump prices. A significant element is the dozens of gasoline formulations that refineries must produce to meet environmental standards nationwide, as well as the switch from winter to summer gasoline blends; and

Whereas, to address these concerns, the President has ordered a temporary suspen-

sion of environmental rules for gasoline so that refineries can meet consumer demand more cost effectively, which should in turn dampen prices at the pump; and

Whereas, while our nation's refining capacity has been stagnant for 30 years, our total energy demand has increased by 40 percent. This is due in part to the problems of a large bureaucratic permitting process that has made it extremely difficult to site and construct new refineries; and

Whereas, new refineries could increase gasoline supplies and lower gasoline prices for consumers. It may be helpful for Michigan to identify what state government barriers exist that hamper our ability to site new refineries or to enhance our existing refinery capacity; and

Whereas, legislation to support increased exploration and production of domestic oil and gas reserves has been debated by Congress. Such development would decrease our dependence on foreign sources of oil and meet the nation's future energy needs; and

Whereas, the Strategic Petroleum Reserve was established to guard against any major supply disruption. The President ordered the deferment of deposits into the reserve to leave more oil on the market to meet consumer demand, which should in turn dampen prices at the pump; and

Whereas, one approach to solving America's energy problems is to invest in alternative forms of energy. The President signed the National Energy Policy Act of 2005, which authorizes billions of dollars to promote the production and use of alternative transportation fuels and to enhance domestic energy production. By supporting the production and use of ethanol, biodiesel, and other alternative fuels, our nation will enhance its security by becoming less dependent on foreign sources of oil. Now therefore, be it

*Resolved by the Senate*, That we urge the United States Attorney General and the Chairman of the Federal Trade Commission to immediately investigate all potential price gouging, price fixing, and other anti-competitive practices related to gasoline prices as directed by the President of the United States; and be it further

*Resolved*, That we memorialize the Congress to act on the President's call to roll back government assistance and tax breaks for oil companies; and be it further

*Resolved*, That we support the President's actions to temporarily suspend environmental rules for gasoline to more quickly and efficiently make the switch to summer gasoline and thereby dampen gasoline prices at the pump; and be it further

*Resolved*, That we memorialize the President of the United States and the United States Congress to increase efforts to decrease the nation's dependence on foreign sources of energy by increasing domestic oil and gas exploration and production; and be it further

*Resolved*, That we support the President's actions to defer deposits into the Strategic Petroleum Reserve, which could increase supply and dampen prices at the pump; and be it further

*Resolved*, That we memorialize the President of the United States and the United States Congress to increase their support for the development of alternative forms of energy, including ethanol, biodiesel, blended fuels, and other alternative fuels; and be it further

*Resolved*, That we memorialize the Governor to divest state investments in oil companies that she feels have made unseemly profits; and be it further

*Resolved*, That we memorialize the Governor to investigate why it took more than a year and a half for her administration to uti-

lize money provided by the Legislature to increase gasoline pump inspections and deploy new inspectors in a proactive manner. Michigan consumers continue to overpay by hundreds of millions of dollars at the pump while the administration continues a reactive inspection program rather than a proactive inspection program that could protect consumers from paying for more gas than they are receiving; and be it further

*Resolved*, That we memorialize the Governor to instruct the Michigan Department of Environmental Quality to examine Michigan regulations to identify barriers to increasing refinery capacity in Michigan and to make recommendations to lower and remove such barriers; and be it further

*Resolved*, That we memorialize the Governor to investigate the barriers to the redevelopment of Michigan oil and gas reserves and to make recommendations to lower and remove such barriers; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the Office of the Governor.

POM-327. A resolution adopted by the Senate of the State of Michigan relative to memorializing the President of the United States and the United States Congress to take prompt action to provide relief from high gas prices and to call on the Governor of the State of Michigan to investigate potential effects of state government policies that may add to the price of gasoline in Michigan; to the Committee on Energy and Natural Resources.

#### SENATE RESOLUTION NO. 123

Whereas, the average price for unleaded regular gasoline is 71 cents per gallon higher than this time last year; and

Whereas, this is the highest price gasoline has been since immediately after Hurricane Katrina in 2005. The President has instructed the Federal Trade Commission, the Justice Department and the Energy Department to investigate whether the price of gasoline has been unfairly manipulated; and

Whereas, the average price for a barrel of oil recently topped \$75.00 for the first time in history. The President has called on Congress to take back some of the billions of dollars in tax incentives given to energy companies that are not needed in the face of record profits due to high oil prices; and

Whereas, this per-barrel price is approaching the inflation-adjusted highs of the late 1970s and early 1980s; and

Whereas, Michigan's manufacturing, agricultural, and tourism economies are negatively impacted by rising fuel costs; and

Whereas, the Legislature appropriated funds for the Department of Agriculture to add Motor Fuel Quality inspectors and to increase the number of gas pump inspections in the state of Michigan. These inspections help decrease the chance that consumers are being gouged at the pump and should continue so that our citizens get what they pay for; and

Whereas, there are many factors that have contributed to the recent rise in gasoline pump prices. A significant element is the dozens of gasoline formulations that refineries must produce to meet environmental standards nationwide as well as the switch from winter to summer gasoline blends; and

Whereas, to address these concerns, the President has ordered a temporary suspension of environmental rules for gasoline so that refineries can meet consumer demand more cost effectively, which should in turn dampen prices at the pump; and

Whereas, while our nation's refining capacity has been stagnant for 30 years, our total energy demand has increased by 40 percent. This is due in part to the problems of a large bureaucratic permitting process that has made it extremely difficult to site and construct new refineries; and

Whereas, new refineries could increase gasoline supplies and lower gasoline prices for consumers. It may be helpful for Michigan to identify what state government barriers exist that hamper our ability to site new refineries or to enhance our existing refinery capacity; and

Whereas, legislation to support increased exploration and production of domestic oil and gas reserves has been debated by Congress. Such development would decrease our dependence on foreign sources of oil and meet the nation's future energy needs; and

Whereas, Strategic Petroleum Reserve was established to guard against any major supply disruption. The President ordered the deferment of deposits into the reserve to leave more oil on the market to meet consumer demand, which should in turn dampen prices at the pump; and

Whereas, one approach to solving America's energy problems is to invest in alternative forms of energy. The President signed the National Energy Policy Act of 2005, which authorizes billions of dollars to promote the production and use of alternative transportation fuels and to enhance domestic energy production. By supporting the production and use of ethanol, biodiesel and other alternative fuels, "our nation" will enhance its security by becoming less dependent on foreign sources of oil; Now, therefore, be it

*Resolved by the Senate*, That we urge the United States Attorney General and the Chairman of the Federal Trade Commission to immediately investigate all potential price gouging, price fixing, and other anti-competitive practices related to gasoline prices as directed by the President of the United States; and be it further

*Resolved*, That we memorialize the Congress to act on the President's call to roll back government assistance and tax breaks for oil companies; and be it further

*Resolved*, That we support the President's actions to temporarily suspend environmental rules for gasoline to more quickly and efficiently make the switch to summer gasoline and thereby dampen gasoline prices at the pump; and be it further

*Resolved*, That we memorialize the President of the United States and the United States Congress to increase efforts to decrease the nation's dependence on foreign sources of energy in by increasing domestic oil and gas exploration and production; and be it further

*Resolved*, That we support the President's actions to defer deposits into the Strategic Petroleum Reserve, which could increase supply and dampen prices at the pump; and be it further

*Resolved*, That we memorialize the President of the United States and the United States Congress to increase their support for the development of alternative forms of energy, including ethanol, biodiesel, blended fuels, and other alternative fuels; and be it further

*Resolved*, That we memorialize the Governor to divest state investments in oil companies that she feels have made unseemly profits; and be it further

*Resolved*, That we memorialize the Governor to investigate why it took more than a year and a half for her administration to utilize money provided by the Legislature to increase gasoline pump inspections and deploy new inspectors in a proactive manner. Michigan consumers continue to overpay by hundreds of millions of dollars at the pump

while the administration continues a reactive inspection program rather than a proactive inspection program that could protect consumers from paying for more gas than they are receiving; and be it further

*Resolved*, That we memorialize the Governor to instruct the Michigan Department of Environmental Quality to examine Michigan regulations to identify barriers to increasing refinery capacity in Michigan and to make recommendations to lower and remove such barriers; and be it further

*Resolved*, That we memorialize the Governor to investigate the barriers to the redevelopment of Michigan oil and gas reserves and to make recommendations to lower and remove such barriers; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the members of the Michigan congressional delegation, and the Office of the Governor.

POM-328. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to ensure that any United States Army Corps of Engineer project restoring barrier islands protecting Terrebonne and Timbalier Bays redefine and narrow Whiskey Pass, Little Pass, Wine Island Pass, and Cat Island Pass using hardened material; to the Committee on Environment and Public Works.

#### HOUSE CONCURRENT RESOLUTION NO. 108

Whereas, current techniques of restoring barrier islands use fine materials from water bottoms to rebuild the shoreline of the islands, but a hardened material would not as easily erode back into the sea and both techniques work hand in hand and are applicable; and

Whereas, Louisiana's barrier islands are the primary line of defense against waves and storm surge from the Gulf of Mexico and protect our extensive estuarine system and the mainland marshes; and

Whereas, barrier islands help keep one of the nation's most productive fisheries vibrant, provide habitat to wildlife, and furnish storm protection for homes, roads, waterways, and oil industry infrastructure; and

Whereas, these barrier islands provide valuable habitat for migratory birds, nesting shorebirds and waterfowl, and aquatic nursery habitats for fish and shellfish; and

Whereas, restoration is critical to sustaining the barrier islands and reducing mainland marsh loss; and

Whereas, the erosion and breaching of barrier islands reduces their effectiveness in preventing storm surges from reaching mainland marshes and results in increased wave damage to bay marshes; and

Whereas, Louisiana, which contains forty percent of the wetlands in the forty-eight contiguous states, is losing between twenty-five and thirty-five square miles of valuable marine habitat a year, mainly due to erosion, subsidence, and other forces; Now, therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby, memorialize the United States Congress to take such actions as are necessary to ensure that any United States Army Corps of Engineer project restoring barrier islands protecting Terrebonne and Timbalier Bays redefine and narrow Whiskey Pass, Little Pass, Wine Island Pass, and Cat Island Pass using hardened material or rocks; and be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-329. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to taking such actions as are necessary to facilitate the construction of a storm surge barrier at Port Fourchon; to the Committee on Environment and Public Works.

#### HOUSE CONCURRENT RESOLUTION NO. 107

Whereas, in August and September of 2005, the state's coast was visited by two devastating hurricanes, Katrina and Rita, respectively; and

Whereas, Hurricanes Katrina and Rita laid massive destruction all along the southern coast of this state, from St. Bernard Parish to Cameron Parish; and

Whereas, the state's oil and gas infrastructure did not escape the wrath of these two hurricanes, suffering major damages to many of the rigs and platforms located in the Gulf of Mexico and to inland processing facilities; and

Whereas, Hurricane Katrina halted oil and gas production along the coast of Louisiana, the source for twenty-five percent of the country's crude oil production; and

Whereas, such percentage indicates the importance of the industry not only to the state, but to the nation as a whole; and

Whereas, the effects of the destruction and damages felt by the oil and gas industry were not confined to this state, but were felt across the country; and

Whereas, such widespread effect mandates that the federal government take a leading role in protecting the oil and gas industry from future destruction; Now, therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions, including funding, as are necessary to facilitate the construction of a storm surge barrier at Port Fourchon; and be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-330. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to urging and requesting the Social Security Administration to accept a notarized document to suffice as independent verification for evidence of age; to the Committee on Finance.

#### HOUSE CONCURRENT RESOLUTION NO. 90

Whereas, in December 2005, the Social Security Administration changed its procedures for accepting "evidence of age" for newborns; and

Whereas, the Social Security Administration is required to independently verify all documents submitted by United States born individuals requesting an original social security card unless the request for a social security number is submitted through the enumeration at birth process; and

Whereas, according to the Social Security Administration, independent verification requires contacting the hospital where the child was born to determine whether a document submitted by an applicant is authentic; and

Whereas, prior to Hurricane Katrina most newborns in Louisiana were issued social security numbers through Louisiana's enumeration at birth process; and

Whereas, birth certificates were filed with the Louisiana Office of Vital Records by Louisiana hospitals shortly after birth; and

Whereas, if requested by the parents, the Louisiana Office of Vital Records would provide the Social Security Administration

with the necessary information used to issue social security numbers; and

Whereas, since Hurricane Katrina, the Louisiana Office of Vital Records has experienced severe disruption in services including the ability to process birth certificates; and

Whereas, consequently, many infants born prior to, during, and after Hurricane Katrina have not been issued social security numbers through the enumeration at birth process; and

Whereas, since it is unknown when the Louisiana Office of Vital Records will return to normal operations and the enumeration at birth process is fully restored, parents have begun applying for social security numbers for their newborns at local social security offices throughout the state; and

Whereas, prior to the new social security regulations, parents could use an original verification of birth issued by the hospital, as evidence of age, to apply for a social security number for their newborns; and

Whereas, with the new social security requirements, the social security office must independently verify with hospitals the authenticity of each verification of birth given; and

Whereas, this new requirement mandates that hospital staff spend extreme amounts of time re-verifying the birth of every infant applying for a social security number; and

Whereas, since Hurricane Katrina, Woman's Hospital alone has delivered more than three thousand five hundred infants: Therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby urge and request the Social Security Administration to accept a notarized document to suffice as independent verification for evidence of age; and Be it further

*Resolved*, That a suitable copy of this Resolution be transmitted to the vice president of the medical staff at Woman's Hospital and each member of the Louisiana congressional delegation.

POM-331 A concurrent resolution adopted by the Senate of the Legislature of the State of Louisiana relative to redirecting and making available to Louisiana federal contingency funds that were set aside through the Temporary Assistance For Needy Families (TANF) Emergency Response and Recovery Act of 2005 to be drawn by states receiving and hosting residents of Louisiana, Alabama, and Mississippi that were displaced by Hurricane Katrina and Hurricane Rita which remains unused; to the Committee on Finance.

#### SENATE CONCURRENT RESOLUTION No. 41

Whereas, the devastating effects of Hurricane Katrina are still impacting the lives of many persons forced to evacuate; and

Whereas, Congress passed the Temporary Assistance for Needy Families (TANF) Emergency Response and Recovery Act of 2005 to give host states access to two billion dollars to help hurricane victims scattered across the country due to the results of the recent hurricanes; and

Whereas, this act increased the amount of the state family assistance grants and provided immediate access to TANF contingency funds to ensure families in crisis had access to immediate assistance; and

Whereas, this act allows host states providing services to evacuees to apply for contingency funds until August 31, 2006; and

Whereas, more than five months after the contingency funds were set aside for host states to access, few states have requested the additional aid; and

Whereas, billions of unclaimed dollars of federal disaster aid for Hurricane Katrina and Hurricane Rita evacuees go unused even when many of those affected are still in need of immediate assistance; and

Whereas, the unclaimed and unused federal disaster aid funds could be put to immediate use in the hurricane ravaged states to meet the needs of many families and improve their lives; Therefore, be it

*Resolved*, That the Legislature of Louisiana memorializes the Congress of the United States to redirect and make available to Louisiana federal contingency funds that were set aside through the Temporary Assistance For Needy Families (TANF) Emergency Response and Recovery Act of 2005 to be drawn by states receiving and hosting residents of Louisiana, Alabama, and Mississippi that were displaced by Hurricane Katrina and Hurricane Rita which remain unused; and Be it further

*Resolved*, That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana delegation to the United States Congress.

POM-332. A resolution adopted by the Senate of the Legislature of the State of Hawaii relative to providing states with the necessary funding to implement the goals of the No Child Left Behind Act of 2001 and other education-related programs and to offer states waivers or exemptions from related regulations when federal funding for elementary and secondary education is decreased; to the Committee on Health, Education, Labor, and Pensions.

#### SENATE RESOLUTION No. 60

Whereas, the State of Hawaii has long pursued the goal of improving the academic performance of all students, especially those of minority racial and ethnic backgrounds, lower economic status, and limited English proficiency, and those with learning disabilities or challenges; and

Whereas, the State of Hawaii, therefore, applauds the President of the United States and Congress for setting the same goals in the No Child Left Behind Act of 2001, and emphasizing the urgency in closing the achievement gaps for these students; and

Whereas, the No Child Left Behind Act has encouraged some needed changes in public education and was initially accompanied by relatively large increases in federal funding for public elementary and secondary education; and

Whereas, the increases in federal funding since the first year of implementation of the No Child Left Behind Act have been minimal and insufficient to meet its requirements; and

Whereas, the federal government has decreased funding for programs implementing the No Child Left Behind Act in fiscal year 2006 by almost \$800,000,000, and for overall public education by \$606,000,000, including cuts of more than \$165,000,000 from postsecondary education and over \$20,000,000 from programs for students with disabilities: Now, therefore, be it

*Resolved*, By the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006, that the Hawaii Legislature urges the President of the United States and United States Congress to make a serious commitment to improving the quality of the nation's public schools by substantially increasing its funding for implementation of the No Child Left Behind Act, the Higher Education Act, the Individuals with Disabilities Education Act, and other education-related programs; and be it further

*Resolved*, That the State of Hawaii requests that in any year that federal funding for public elementary and secondary education is decreased, the President, United States Congress, and the United States Department of Education create flexibility in No Child Left Behind Act requirements through the

use of state waivers, exemptions, or other mechanisms; and be it further

*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of Education, and Hawaii's congressional delegation.

POM-333. A resolution adopted by the Senate of the Legislature of the State of Hawaii relative to urging the United States Congress to support changes to the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

#### SENATE RESOLUTION No. 61

Whereas, the National Conference of State Legislatures created a special task force (Task Force) that spent ten months conducting a comprehensive, bipartisan review of the No Child Left Behind Act of 2001; and

Whereas, this review identified a number of changes that must be made to the No Child Left Behind Act for it to become a positive impetus to school improvement and ensure that young people will learn at their full potential; and

Whereas, the Task Force drafted forty-three recommendations outlining these necessary changes to provide useful, workable requirements for schools, many of which could be easily incorporated into the No Child Left Behind Act; and

Whereas, the four key Task Force recommendations include: (1) removing obstacles that block state education innovations and undermine programs that were succeeding prior to the passage of the No Child Left Behind Act; (2) providing the federal financial assistance necessary for states to meet No Child Left Behind Act classroom goals; (3) removing the "one-size-fits-all" student performance measurements in favor of more sophisticated systems that measure progress on an individualized basis; and (4) recognizing that individual schools face special challenges, and that significant differences exist between rural and urban schools: Now, therefore, be it

*Resolved*, By the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006, that the Hawaii State Legislature strongly urges the Congress of the United States to support the worthwhile recommendations of the National Conference of State Legislatures special task force on revisions to the No Child Left Behind Act; and be it further

*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and Hawaii's congressional delegation.

POM-334. A resolution adopted by the Senate of the Legislature of the State of Hawaii relative to increasing funds for federal education initiatives and affording more flexibility to states in relation to the No Child Left Behind Act; to the Committee on Health, Education, Labor, and Pensions.

#### SENATE RESOLUTION No. 103

Whereas, all children, regardless of race, income, ethnicity, or disability, deserve a quality public education; and

Whereas, the nation's states are charged with the constitutional responsibility of providing public schools that help all children achieve their full potential; and

Whereas, states have a strong history of innovation, leading education reforms, and responding to the unique needs of their schools and communities; and

Whereas, states have long supported the worthy goals of the federal No Child Left Behind Act to improve academic achievement,

provide quality teachers, and increase accountability at all levels; and

Whereas, while a stated goal of NCLB is to provide flexibility for states to improve academic achievement and close achievement gaps, the Task Force on NCLB found that little flexibility has been granted to states to implement NCLB; and

Whereas, the best way for the federal government to make education a national priority is to support states in their continuing efforts to raise student achievement by investing in the core building blocks of educational improvement, including:

(1) A quality classroom environment that provides students with quality teachers, smaller classes, up-to-date books and materials, and tools for technology;

(2) Opportunities for increased parent and community involvement that recognize the crucial role that parents and the community play in student success;

(3) Standard that support, not undermine, state and local education reform efforts that set high expectations, demonstrate clear results, and establish comprehensive and rigorous curricula;

(4) Accurate measures of student achievement that provide schools with a better gauge of student performance by relying on a broader range of measures, including graduation, attendance and dropout rates, classroom grades, and student progress, in addition to test scores; and

(5) Improved measures of accountability that focus on results, rather than the process, provide support and incentives rather than mandates and punishments, and direct sufficient resource to the students and schools most in need; Now, therefore, be it

*Resolved*, By the Senate of the Twenty-third Legislature of the State of Hawaii, Regular Session of 2006, that the President of the United States and the United States Congress are urged to fulfill their commitment to improving the quality of the nation's public schools by substantially increasing funding for NCLB, the Higher Education Act, the Individuals with Disabilities Education Act, and other education-related programs; and be it further

*Resolved*, That the State of Hawaii respectfully requests that the President of the United States, United States Congress, and United States Department of Education provide waivers, exemptions, or other flexibility to help the states with the requirements of NCLB for any year that federal funding for public elementary and secondary education is reduced; and be it further

*Resolved*, That the State of Hawaii encourages other states to pass similar resolutions; and be it further

*Resolved*, That certified copies of this Resolution be transmitted to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, Secretary of the United States Department of Education, and members of Hawaii's Congressional delegation.

POM-335. A resolution adopted by the Senate of the State of Michigan relative to adding social studies to the testing requirements of the No Child Left Behind Act of 2001; to the Committee on Health, Education, Labor, and Pensions.

#### SENATE RESOLUTION NO. 108

Whereas, Every generation of Americans has relied on the public schools to prepare young people to be responsible stewards of our national legacy, entrepreneurial economic competitors, and active participants in civic life. The founders believed that well-educated citizens were crucial to a free society; and

Whereas, Citizens of the twenty-first century face unprecedented challenges, including adapting to widely diverse communities and workplaces, economic competition on a global scale, applying rapidly evolving technologies, managing scarce natural resources, and revolving political and cultural conflicts; and

Whereas, The No Child Left Behind Act of 2001 requires rigorous assessment of the core academic subject of reading, mathematics, and science. Success in dealing with the challenges of the twenty-first century require mastering the core disciplines of the social sciences, including civics, government, economics, history, and geography, as well as reading, mathematics, and science; and

Whereas, Assessing or measuring proficiency in some but not all of the academic subjects necessary for a successful education results in a lack of equitable measurement data of student achievement. This limits accountability for the responsible delivery of the untested academic subjects as well as leading to less instructional attention, fewer resources, and less emphasis on the social studies curriculum: Now, therefore, be it

*Resolved by the Senate*, That we memorialize the United States Congress to add civics, government, economics, history, and geography to the testing requirements of the No Child Left Behind Act of 2001; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-336. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to providing flexible funding to help states and local communities clean up and deal with the disastrous effects of clandestine methamphetamine labs; to the Committee on the Judiciary.

#### HOUSE RESOLUTION NO. 209

Whereas, There is a meth epidemic in the United States, and it is having a devastating effect on our country. Meth abuse is causing social, economic, and environmental problems. Children residing in homes with meth labs live in danger and often suffer from neglect and abuse. Meth production costs citizens and governments millions of dollars for a variety of reasons, including law enforcement costs, drug treatment for offenders, cleanup of production sites, and placement of endangered children; and

Whereas, Meth labs leave behind a toxic mess of chemicals and pose a significant danger to communities. The manufacture of one pound of methamphetamine results in six pounds of waste. These wastes include corrosive liquids, acid vapors, heavy metals, solvents, and other harmful materials that can disfigure skin or cause death. Hazardous materials from meth labs are typically disposed of illegally and may cause severe damage to the environment; and

Whereas, Between 1992 and 2004, the number of clandestine meth lab-related cleanups increased from 394 to over 10,000 nationwide. The cost of cleaning up clandestine labs in FY 2004 was approximately \$17.8 million; and

Whereas, States and local governments are bearing the burden of funding the clean up efforts. Many local communities are finding and seizing meth labs. But the lab sites remain dangerous to the public because neither the state or the local community has adequate funding to clean them up; and

Whereas, Federal funding that is supposed to help states and local communities bear

the burden of cleaning up meth labs is narrowly crafted and many states and local communities are finding it difficult to qualify; and

Whereas, Federal legislation, such as the Clean, Learn, Educate, Abolish, Neutralize, and Undermine Production (CLEAN-UP) of Methamphetamines Act, introduced in the United States House of Representatives, and the Combat Meth Act of 2005, introduced in the United States Senate, contain funding for meth lab cleanup; Now, therefore, be it

*Resolved by the House of Representatives*, That we memorialize the United States Congress to provide funding for meth lab clean up and ensure that the criteria to qualify for the funds is broad enough that states and local communities in the midst of the meth epidemic can access the funds; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-337. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to using flexibility in the implementation of rules to allow use of an enhanced drivers license under the Western Hemisphere Travel Initiative which requires all citizens of any age of the United States, Canada, Mexico, and Bermuda to have a passport or other secure documentation to enter or re-enter the United States; to the Committee on the Judiciary.

#### HOUSE RESOLUTION NO. 188

Whereas, The Michigan-Canada crossing is the busiest border crossing in North America, including commerce, tourism, trade, workers, and students, averaging hundreds of millions of dollars in trade value per day in Michigan alone and hundreds of billions of dollars per year across the entire northern border. There are 10 land ports of entry between Canada and Michigan, and in 2004 over 21 million passenger vehicles crossed at just five of those ports. In 2004, there were 58,000 daily border crossings to and from Michigan and Canada; and

Whereas, The Western Hemisphere Travel Initiative is a proposal developed by the United States Department of Homeland Security and the United States Department of State, to require that all citizens of any age entering or re-entering the United States from Canada, Mexico, and Bermuda, have in their possession a passport or other secure documentation as the only acceptable documentation required by law as of December 31, 2007; and

Whereas, This proposal could have a devastating economic impact on Michigan by slowing commerce and tourism. The costly (\$97 for each adult and \$82 for each child) and cumbersome process of obtaining a passport may discourage many families, entrepreneurs, and tourists from traveling across the border. Many residents in border regions would be discouraged from taking spontaneous trips across the border. It is projected that the total number of persons crossing the border would decline, subsequently causing financial difficulties for bridge and tunnel operators along the border who largely depend on toll revenue to undertake maintenance and improvement projects. It is estimated that the impact of this policy would be economically devastating to Michigan because Canada remains Michigan's primary export market, with \$175 billion worth of merchandise goods exchanged during 2004 alone; and

Whereas, This proposal could end an 80-year period of trust between the United



States and Canada that allowed for seamless cross-border trade and travel and the opportunity for education and employment exchanges; and

Whereas, Protecting our borders is critical to ensuring homeland security, and alternative means of establishing a traveler's identity and nationality should be thoroughly examined by the Departments of Homeland Security and State. One such alternative that would be much cheaper and less cumbersome could involve an identification code on driver's licenses issued in Michigan: Now, therefore, be it

*Resolved by the House of Representatives,* That we memorialize the President and the Congress of the United States to use flexibility in the implementation of rules to allow use of an enhanced drivers license under the Western Hemisphere Travel Initiative which requires all citizens of any age of the United States, Canada, Mexico, and Bermuda to have a passport or other secure documentation to enter or re-enter the United States; and be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM-338. A resolution adopted by the House of Representatives of the Legislature of the State of Michigan relative to enacting legislation restricting protests at funerals; to the Committee on Veterans' Affairs.

#### HOUSE RESOLUTION NO. 226

Whereas, More than 100 military funerals nationwide have been besieged with protesters in the past three years. Protesters have trespassed on the solitude and dignity of grieving families, who want nothing more than to bury their husbands, wives, sons, and daughters in peace and solemnity. Espousing perverse and hateful language and placards, these protesters celebrate the slaying of our nation's heroes; and

Whereas, No family member, on the blackest day of their life, should have to confront such premeditated viciousness, which is solely calculated to deepen the anguish of bereavement. Under such circumstances, the family's right to privacy outweighs any supposed free speech concerns; and

Whereas, The United States Congress is considering legislation to restrict protests at funerals at national cemeteries for 60 minutes before or after a funeral. The measure would also restrict protesters to remain 500 feet or more from the grave site or from individuals they are protesting: Now, therefore, be it

*Resolved by the House of Representatives,* That we memorialize the United States Congress to enact legislation restricting protests at funerals; and be it further

*Resolved,* That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

#### EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. GRASSLEY for the Committee on Finance.

\*Susan C. Schwab, of Maryland, to be United States Trade Representative, with the rank of Ambassador.

By Ms. COLLINS for the Committee on Homeland Security and Governmental Affairs.

\*Robert J. Portman, of Ohio, to be Director of the Office of Management and Budget.

\*David L. Norquist, of Virginia, to be Chief Financial Officer, Department of Homeland Security.

\*Robert Irwin Cusick, Jr., of Kentucky, to be Director of the Office of Government Ethics for a term of five years.

\*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

#### INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2919. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to establish a Director of the Pension Benefit Guaranty Corporation and the Internal Revenue code of 1986 to increase certain penalties, and for other purposes; to the Committee on Finance.

By Mr. REID (for Mr. BIDEN):

S. 2920. A bill to amend the Safe Drinking Water Act to eliminate security risks by replacing the use of extremely hazardous gaseous chemicals with inherently safer technologies; to the Committee on Environment and Public Works.

By Mr. REID (for Mr. DAYTON):

S. 2921. A bill to amend title 49, United States Code, to enhance competition among and between rail carriers in order to ensure efficient rail service and reasonable rail rates, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. TALENT:

S. 2922. A bill to suspend temporarily the duty on certain machines used in the assembly of motorcycle wheels; to the Committee on Finance.

By Mr. KYL:

S. 2923. A bill to extend temporarily the suspension of duty on Vinclozolin; to the Committee on Finance.

By Mr. ALLEN:

S. 2924. A bill to suspend temporarily the duty on brominated polystyrene flame retardant; to the Committee on Finance.

#### SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mrs. CLINTON (for herself, Ms. CANTWELL, Mr. MENENDEZ, Mr. KERRY, Mr. LAUTENBERG, Mrs. MURRAY, Mr. KENNEDY, Mr. SCHUMER, Mrs. BOXER, Mr. HARKIN, Mrs. FEINSTEIN, and Ms. LANDRIEU):

S. Res. 485. A resolution to express the sense of the Senate concerning the value of family planning for American women; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI (for herself, Mr. ALLEN, Mr. CRAIG, Mr. STEVENS, Mr. VITTER, Ms. LANDRIEU, Mrs. DOLE, Mr. CRAPO, Mr. BURNS, Mrs. LINCOLN, Mr. WARNER, Mr. JOHNSON, Mr. ROB-

ERTS, Mr. SANTORUM, and Mr. DEWINE):

S. Res. 486. A resolution designating June 2006 as "National Internet Safety Month"; considered and agreed to.

By Mr. FEINGOLD (for himself and Ms. SNOWE):

S. Res. 487. A resolution expressing the sense of the Senate with regard to the importance of Women's Health Week, which promotes awareness of diseases that affect women and which encourages women to take preventive measures to ensure good health; considered and agreed to.

By Mr. ALEXANDER (for himself, Mr. LEAHY, Mr. HATCH, Mr. NELSON of Florida, and Mr. FRIST):

S. Res. 488. A resolution expressing the sense of Congress that institutions of higher education should adopt policies and educational programs on their campuses to help deter and eliminate illicit copyright infringement occurring on, and encourage educational uses of, their computer systems and networks; considered and agreed to.

#### ADDITIONAL COSPONSORS

S. 25

At the request of Mr. CHAMBLISS, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 25, a bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States.

S. 558

At the request of Mr. REID, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 559

At the request of Mr. BIDEN, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 559, a bill to make the protection of vulnerable populations, especially women and children, who are affected by a humanitarian emergency a priority of the United States Government, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1099

At the request of Mr. SHELBY, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1099, a bill to repeal the current Internal Revenue Code and replace it with a flat tax, thereby guaranteeing economic growth and greater fairness for all Americans.

S. 1162

At the request of Ms. CANTWELL, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1162, a bill to amend title 10 and 38, United States Code, to repeal the 10-year limits on use of Montgomery GI Bill educational assistance benefits, and for other purposes.

S. 1171

At the request of Mr. SPECTER, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1171, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents, and for other purposes.

S. 1353

At the request of Mr. MARTINEZ, his name was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

At the request of Mr. REID, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1353, *supra*.

S. 1376

At the request of Mr. COCHRAN, the names of the Senator from Maine (Ms. COLLINS) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 1376, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 1862

At the request of Mr. SMITH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1862, a bill to establish a joint energy cooperation program within the Department of Energy to fund eligible ventures between United States and Israeli businesses and academic persons in the national interest, and for other purposes.

S. 1934

At the request of Mr. SPECTER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2278

At the request of Ms. MURKOWSKI, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2278, a bill to amend the Public Health Service Act to improve the prevention, diagnosis, and treatment of heart disease, stroke, and other cardiovascular diseases in women.

S. 2292

At the request of Mr. SPECTER, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2292, a bill to provide relief for the Federal judiciary from excessive rent charges.

S. 2321

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. ALLEN) 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. 2385

At the request of Mr. REID, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2385, a bill to amend title 10, United States Code, to expand eligibility for Combat-Related Special Compensation paid by the uniformed services in order to permit certain additional retired members who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for that disability and Combat-Related Special Compensation by reason of that disability.

S. 2452

At the request of Mr. BAYH, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 2452, a bill to prohibit picketing at the funerals of members and former members of the armed forces.

S. 2459

At the request of Ms. COLLINS, the names of the Senator from Washington (Ms. CANTWELL) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2459, a bill to improve cargo security, and for other purposes.

S. 2494

At the request of Mr. BURNS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2494, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for the payment of premiums for high deductible health plans, to allow a credit for certain employment taxes paid with respect to premiums for high deductible health plans and contributions to health savings accounts, and for other purposes.

S. 2506

At the request of Mr. OBAMA, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2506, a bill to require Federal agencies to support health impact assessments and take other actions to improve health and the environmental quality of communities, and for other purposes.

S. 2642

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin

(Mr. FEINGOLD) was added as a cosponsor of S. 2642, a bill to amend the Commodity Exchange Act to add a provision relating to reporting and record-keeping for positions involving energy commodities.

S. 2658

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2658, a bill to amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

S. 2694

At the request of Mr. CRAIG, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2694, a bill to amend title 38, United States Code, to remove certain limitation on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, and for other purposes.

S. 2703

At the request of Mr. SPECTER, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2703, a bill to amend the Voting Rights Act of 1965.

S. 2796

At the request of Mr. GRAHAM, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2796, a bill to authorize the Secretary of Energy to establish monetary prizes for achievements in overcoming scientific and technical barriers associated with hydrogen energy.

S. 2802

At the request of Mr. ENSIGN, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Oregon (Mr. SMITH), the Senator from Virginia (Mr. ALLEN), the Senator from Montana (Mr. BURNS), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Florida (Mr. NELSON) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2802, a bill to improve American innovation and competitiveness in the global economy.

S. 2803

At the request of Mr. ENZI, the names of the Senator from Kentucky (Mr. MCCONNELL) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 2803, a bill to amend the Federal Mine Safety and Health Act of 1977 to improve the safety of mines and mining.

S. 2810

At the request of Mr. GRASSLEY, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 2810, a bill to amend title XVIII of the Social Security Act to eliminate months in 2006 from the

calculation of any late enrollment penalty under the Medicare part D prescription drug program and to provide for additional funding for State health insurance counseling program and area agencies on aging, and for other purposes.

S. 2811

At the request of Ms. STABENOW, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2811, a bill to amend title XVIII of the Social Security Act to extend the annual, coordinated election period under the Medicare part D prescription drug program through all of 2006 and to provide for a refund of excess premiums paid during 2006, and for other purposes.

S. 2831

At the request of Mr. LUGAR, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2831, a bill to guarantee the free flow of information to the public through a free and active press while protecting the right of the public to effective law enforcement and the fair administration of justice.

S. 2855

At the request of Mr. BIDEN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2855, a bill to amend the Safe Drinking Water Act to eliminate security risks by replacing the use of extremely hazardous gaseous chemicals with inherently safer technologies.

S.J. RES. 12

At the request of Mr. HATCH, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S.J. Res. 12, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 35

At the request of Mr. BYRD, the names of the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S.J. Res. 35, a joint resolution proposing an amendment to the Constitution of the United States to clarify that the Constitution neither prohibits voluntary prayer nor requires prayer in schools.

S. CON. RES. 71

At the request of Mr. AKAKA, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Con. Res. 71, a concurrent resolution expressing the sense of Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual.

S. RES. 224

At the request of Mr. DEWINE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. Res. 224, a resolution to

express the sense of the Senate supporting the establishment of September as Campus Fire Safety Month, and for other purposes.

S. RES. 462

At the request of Mr. GRASSLEY, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 462, a resolution designating June 8, 2006, as the day of a National Vigil for Lost Promise.

S. RES. 469

At the request of Mr. MCCAIN, the names of the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. Res. 469, a resolution condemning the April 25, 2006, beating and intimidation of Cuban dissident Martha Beatriz Roque.

AMENDMENT NO. 4076

At the request of Mr. ENSIGN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of amendment No. 4076 proposed to S. 2611, a bill to provide for comprehensive immigration reform and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 2919. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to establish a Director of the Pension Benefit Guaranty Corporation and the Internal Revenue code of 1986 to increase certain penalties, and for other purposes; to the Committee on Finance.

Mr. BAUCUS. Mr. President, I am pleased to join my distinguished colleague from Iowa, Senator GRASSLEY, to introduce a bill making the position of executive director of the Pension Benefit Guaranty Corporation, or the PBGC, subject to the advice and consent of the Senate.

Quite frankly, I was surprised to find out that this important position is not subject to Senate approval. The Secretary of Labor, the Chairman of the PBGC, simply appoints the executive director. This is too important a position not to be subject to Senate oversight.

Jurisdiction over the PBGC rests with both the Committee on Finance and the Committee on Health, Education, Labor, and Pensions, the HELP Committee. To recognize this, our bill would require both committees to approve the director.

The Finance Committee, the HELP Committee, and indeed the entire Senate have spent considerable time over the last few years fighting to protect the pensions of millions of workers. And the deficit of the PBGC—now over \$23 billion—has been growing.

We now have a bill in conference that I hope will be brought back before the Senate soon. And I hope that the sim-

ple provision that I am introducing today can be added to that legislation.

It is the perfect time to make the position subject to Senate approval. The current executive director is leaving the PBGC at the end of May. And his replacement should be subject to Senate confirmation.

The PBGC is a government corporation that was created when ERISA was enacted in 1974. It is established within the Department of Labor. Labor controls PBGC for many administrative matters. But PBGC has its own budget, which goes through the PBGC Board, and PBGC's attorneys litigate their own cases. PBGC is controlled by a 3-person Board made up of the Secretary of Labor, as the Chairman of the PBGC, and the Secretaries of the Treasury and Commerce.

PBGC is run on a day-to-day basis by an executive director. This position is not mentioned in ERISA but is a creation of the PBGC by-laws adopted by the board. The Secretary of Labor appoints the executive director, who is a political appointee. Executive directors have stayed on average a couple of years.

The PBGC insures the pensions of 40 million workers and retirees in about 30,000 plans. These plans have trillions of dollars in assets. PBGC itself has more than \$40 billion in assets, more than \$63 billion in liabilities, and a \$23 billion deficit. Even with the rush to terminate or freeze current plans, most of the Nation's biggest companies still maintain defined benefit plans. What happens with defined benefit plans has a big effect on America's competitiveness and affects the retirement security of America's workers and retirees.

Making the executive director's position an advice and consent position would give the Senate say in what type of person serves in this position so that PBGC does not become another FEMA. It would show the importance that Congress attaches to the role of the PBGC for workers, retirees and employers. It would raise the attraction of the PBGC director position.

I ask my colleagues to support making the PBGC executive director position subject to Senate approval.

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

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

S. 2919

*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 "PBGC Confirmation Act of 2006".

#### SEC. 2. DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) is amended—

(1) by striking the second sentence of section 4002(a) and inserting the following: "In carrying out its functions under this title, the corporation shall be administered by a

Director, who shall be appointed by and with the advice and consent of the Senate and who shall act in accordance with the policies established by the board.”; and

(2) in section 4003(b), by—

(A) striking “under this title, any member” and inserting “under this title, the Director, any member”; and

(B) striking “designated by the chairman” and inserting “designated by the Director or chairman”.

(b) COMPENSATION OF DIRECTOR.—Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

“Director, Pension Benefit Guaranty Corporation.”.

(c) JURISDICTION OF NOMINATION.—

(1) IN GENERAL.—The Committee on Finance of the Senate and the Committee on Health, Education, Labor, and Pensions of the Senate shall have joint jurisdiction over the nomination of a person nominated by the President to fill the position of Director of the Pension Benefit Guaranty Corporation under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) (as amended by this Act), and if one committee votes to order reported such a nomination, the other shall report within 30 calendar days, or be automatically discharged.

(2) RULEMAKING OF THE SENATE.—This subsection is enacted by Congress—

(A) as an exercise of rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a nomination described in such sentence, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

(d) TRANSITION.—The term of the individual serving as Executive Director of the Pension Benefit Guaranty Corporation on the date of enactment of this Act shall expire on such date of enactment. Such individual, or any other individual, may serve as interim Director of such Corporation until an individual is appointed as Director of such Corporation under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) (as amended by this Act).

### SEC. 3. PENALTY FOR FAILURE TO FILE AN ACTUARIAL REPORT.

Section 6692 of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Beginning with plan years beginning in 2005, in the case of a plan to which section 412(l) applied for a plan year, there shall be assessed, in lieu of the penalty in the preceding sentence, a tax equal to 0.1 percent of the plan’s unfunded current liability under section 412(l)(8)(A) for the plan year to which the report relates, but in no case less than \$1,000 or more than \$5,000.”.

By Mr. REID (for Mr. BIDEN):

S. 2920. A bill to amend the Safe Drinking Water Act to eliminate security risks by replacing the use of extremely hazardous gaseous chemicals with inherently safer technologies; to the Committee on Environment and Public Works.

Mr. BIDEN. Mr. President. I rise today to introduce the Community Water Treatment Hazards Reduction Act of 2006. This legislation would com-

pletely eliminate a known security risk to millions of Americans across the United States by facilitating the transfer to safer technologies from deadly toxic chemicals at our Nation’s water treatment facilities.

Across our Nation, there are thousands of water treatment facilities that utilize gaseous toxic chemicals to treat drinking and wastewater. Approximately 2,850 facilities are currently regulated under the Clean Air Act because they store large quantities of these dangerous chemicals. In fact, 98 of these facilities threaten over 100,000 citizens. For example, the Fiveash Water Treatment Plant in Fort Lauderdale, FL threatens 1,526,000 citizens. The Bachman Water Treatment in Dallas, TX threatens up to 2,000,000 citizens. And there are similar examples in communities throughout the Nation. If these facilities—and the 95 other facilities that threaten over 100,000 citizens—switched from the use of toxic chemicals to safer technologies that are widely used within the industry we could completely eliminate a known threat to nearly 50 million Americans.

Many facilities have already made the prudent decision to switch without intervention by government. The Middlesex County Utilities Authority in Sayreville, NJ, switched to safer technologies and eliminated the risk to 10.7 million people. The Nottingham Water Treatment Plant in Cleveland, OH switched and eliminated the risk to 1.1 million citizens. The Blue Plains Wastewater Treatment Plant switched and eliminated the risk to 1.7 million people. In my hometown of Wilmington, DE, the Wilmington Water Pollution Control Facility switched from using chlorine gas to liquid bleach. This commendable decision has eliminated the risk to 560,000 citizens, including the entire city of Wilmington. In fact, this facility no longer has to submit risk management plans to the Environmental Protection Agency required by the Clean Air Act because the threat has been completely eliminated. There are many other examples of facilities that have done the right thing and eliminated the use of these dangerous, gaseous chemicals.

The bottom line is that if we can eliminate a known-risk, we should. The legislation I am introducing today will do just that. It will require the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Homeland Security, to do a few simple things. First, water facilities will be prioritized based upon the risk that they pose to citizens and critical infrastructure. These facilities—beginning with the most dangerous ones—will be required to submit a report on the feasibility of utilizing safer technologies and the anticipated costs to transition. If grant funding is available, the Administrator will issue a grant and order the facility to transition to the safer technology chosen by the owner of the facility. I believe that this approach will allow us to use fed-

eral funds responsibly while reducing risk to our citizens.

Once the transition is complete, the facility will be required to track all cost-savings related to the switch, such as decreased security costs, costs savings by eliminating administrative requirements under the EPA risk management plan, lower insurance premiums, and others. If savings are ultimately realized by the facility, it will be required to return one half of these saving, not to exceed the grant amount, back to the EPA. In turn, the EPA will utilize any returned savings to help facilitate the transition of more water facilities.

A 2005 report by the Government Accountability Office found that providing grants to assist water facilities to transition to safer technologies was an appropriate use of federal funds. The costs for an individual facility to transition will vary, but the cost is very cheap when you consider the security benefit. For example, the Wilmington facility invested approximately \$160,000 to transition and eliminated the risk to nearly 600,000 people. Similarly, the Blue Plains facility spent \$500,000 to transition after 9/11 and eliminated the risk to 1.2 million citizens immediately. This, in my view, is a sound use of funds. And, this legislation will provide sufficient funding to transition all of our high-priority facilities throughout the Nation.

Finally, I would like to point out that facilities making the decision to transition after 9/11, but before the enactment date of this legislation will be eligible to participate in the program authorized by this legislation. I’ve included this provision because I believe that the federal government should acknowledge—and promote—local decisions that enhance our homeland security. In addition we don’t want to create a situation where water facilities wait for Federal funding before doing the right thing and eliminating those dangerous gaseous chemicals.

Last December the 9/11 Discourse Project released its report card for the administration and Congress on efforts to implement the 9/11 Commission recommendations. It was replete with D’s and F’s demonstrating that we have been going in the wrong direction with respect to homeland security. One of the most troubling findings made by the 9/11 Commission is that with respect to our Nation’s critical infrastructure that “no risk and vulnerability assessments actually made; no national priorities established; no recommendations made on allocations of scarce resources. All key decisions are at least a year away. It is time that we stop talking about priorities and actually get some.” While much remains to be done, the Community Water Treatment Hazards Reduction Act of 2006 sets an important priority for our homeland security and it affirmatively addresses it. I urge my colleagues to support this important legislation.

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

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

S. 2920

*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 “Community Water Treatment Hazards Reduction Act of 2006”.

#### SEC. 2. USE OF INHERENTLY SAFER TECHNOLOGIES AT WATER FACILITIES.

Part F of the Safe Drinking Water Act (42 U.S.C. 300j–21 et seq.) is amended by adding at the end the following:

##### “SEC. 1466. USE OF INHERENTLY SAFER TECHNOLOGIES AT WATER FACILITIES.

“(a) DEFINITIONS.—In this section:

“(1) HARMFUL INTENTIONAL ACT.—The term ‘harmful intentional act’ means a terrorist attack or other intentional act carried out upon a water facility that is intended—

“(A) to substantially disrupt the ability of the water facility to provide safe and reliable—

“(i) conveyance and treatment of wastewater or drinking water;

“(ii) disposal of effluent; or

“(iii) storage of a potentially hazardous chemical used to treat wastewater or drinking water;

“(B) to damage critical infrastructure;

“(C) to have an adverse effect on the environment; or

“(D) to otherwise pose a significant threat to public health or safety.

“(2) INHERENTLY SAFER TECHNOLOGY.—The term ‘inherently safer technology’ means a technology, product, raw material, or practice the use of which, as compared to the current use of technologies, products, raw materials, or practices, significantly reduces or eliminates—

“(A) the possibility of release of a substance of concern; and

“(B) the hazards to public health and safety and the environment associated with the release or potential release of a substance of concern.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security (or a designee).

“(4) SUBSTANCE OF CONCERN.—

“(A) IN GENERAL.—The term ‘substance of concern’ means any chemical, toxin, or other substance that, if transported or stored in a sufficient quantity, would have a high likelihood of causing casualties and economic damage if released or otherwise successfully targeted by a harmful intentional act, as determined by the Administrator, in consultation with the Secretary.

“(B) INCLUSIONS.—The term ‘substance of concern’ includes—

“(i) any substance included in Table 1 or 2 contained in section 68.130 of title 40, Code of Federal Regulations (or a successor regulation), published in accordance with section 112(r)(3) of the Clean Air Act (42 U.S.C. 7412(r)(3)); and

“(ii) any other highly hazardous gaseous toxic material or substance that, if transported or stored in a sufficient quantity, could cause casualties or economic damage if released or otherwise successfully targeted by a harmful intentional act, as determined by the Administrator, in consultation with the Secretary.

“(5) TREATMENT WORKS.—The term ‘treatment works’ has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

“(6) VULNERABILITY ZONE.—The term ‘vulnerability zone’ means, with respect to a substance of concern, the geographic area that would be affected by a worst-case release of the substance of concern, as determined by the Administrator on the basis of—

“(A) an assessment that includes the information described in section 112(r)(7)(B)(i)(I) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(i)(I)); or

“(B) such other assessment or criteria as the Administrator determines to be appropriate.

“(7) WATER FACILITY.—The term ‘water facility’ means a treatment works or public water system owned or operated by any person.

“(b) REGULATIONS.—

“(1) IN GENERAL.—Not later than 90 days after the date of enactment of this section, the Administrator, in consultation with the Secretary and other Federal, State, and local governmental entities, security experts, owners and operators of water facilities, and other interested persons shall—

“(A) compile a list of all high-consequence water facilities, as determined in accordance with paragraph (2); and

“(B) notify each owner and operator of a water facility that is included on the list.

“(2) IDENTIFICATION OF HIGH-CONSEQUENCE WATER FACILITIES.—

“(A) IN GENERAL.—Subject to subparagraph (B), in determining whether a water facility is a high-consequence water facility, the Administrator shall consider—

“(i) the number of people located in the vulnerability zone of each substance of concern that could be released at the water facility;

“(ii) the critical infrastructure (such as health care, governmental, or industrial facilities or centers) served by the water facility;

“(iii) any use by the water facility of large quantities of 1 or more substances of concern; and

“(iv) the quantity and volume of annual shipments of substances of concern to or from the water facility.

“(B) TIERS OF FACILITIES.—

“(i) IN GENERAL.—Except as provided in clauses (ii) through (iv), the Administrator shall classify high-consequence water facilities designated under this paragraph into 3 tiers, and give priority to orders issued for, actions taken by, and other matters relating to the security of, high-consequence water facilities based on the tier classification of the high-consequence water facilities, as follows:

“(I) TIER 1 FACILITIES.—A Tier 1 high-consequence water facility shall have a vulnerability zone that covers more than 100,000 individuals and shall be given the highest priority by the Administrator.

“(II) TIER 2 FACILITIES.—A Tier 2 high-consequence water facility shall have a vulnerability zone that covers more than 25,000, but not more than 100,000, individuals and shall be given the second-highest priority by the Administrator.

“(III) TIER 3 FACILITIES.—A Tier 3 high-consequence water facility shall have a vulnerability zone that covers more than 10,000, but not more than 25,000, individuals and shall be given the third-highest priority by the Administrator.

“(ii) MANDATORY DESIGNATION.—If the vulnerability zone for a substance of concern at a water facility contains more than 10,000 individuals, the water facility shall be—

“(I) considered to be a high-consequence water facility; and

“(II) classified by the Administrator to an appropriate tier under clause (i).

“(iii) DISCRETIONARY CLASSIFICATION.—A water facility with a vulnerability zone that

covers 10,000 or fewer individuals may be designated as a high consequence facility, on the request of the owner or operator of a water facility, and classified into a tier described in clause (i), at the discretion of the Administrator.

“(iv) RECLASSIFICATION.—The Administrator—

“(I) may reclassify a high-consequence water facility into a tier with higher priority, as described in clause (i), based on an increase of population covered by the vulnerability zone or any other appropriate factor, as determined by the Administrator; but

“(II) may not reclassify a high-consequence water facility into a tier with a lower priority, as described in clause (i), for any reason.

“(3) OPTIONS FEASIBILITY ASSESSMENT ON USE OF INHERENTLY SAFER TECHNOLOGY.—

“(A) IN GENERAL.—Not later than 90 days after the date on which the owner or operator of a high-consequence water facility receives notice under paragraph (1)(B), the owner or operator shall submit to the Administrator an options feasibility assessment that describes—

“(i) an estimate of the costs that would be directly incurred by the high-consequence water facility in transitioning from the use of the current technology used for 1 or more substances of concern to inherently safer technologies; and

“(ii) comparisons of the costs and benefits to transitioning between different inherently safer technologies, including the use of—

“(I) sodium hypochlorite;

“(II) ultraviolet light;

“(III) other inherently safer technologies that are in use within the applicable industry; or

“(IV) any combination of the technologies described in subclauses (I) through (III).

“(B) CONSIDERATIONS IN DETERMINING ESTIMATED COSTS.—In estimating the transition costs described in subparagraph (A)(i), an owner or operator of a high-consequence water facility shall consider—

“(i) the costs of capital upgrades to transition to the use of inherently safer technologies;

“(ii) anticipated increases in operating costs of the high-consequence water facility;

“(iii) offsets that may be available to reduce or eliminate the transition costs, such as the savings that may be achieved by—

“(I) eliminating security needs (such as personnel and fencing);

“(II) complying with safety regulations;

“(III) complying with environmental regulations and permits;

“(IV) complying with fire code requirements;

“(V) providing personal protective equipment;

“(VI) installing safety devices (such as alarms and scrubbers);

“(VII) purchasing and maintaining insurance coverage;

“(VIII) conducting appropriate emergency response and contingency planning;

“(IX) conducting employee background checks; and

“(X) potential liability for personal injury and damage to property; and

“(iv) the efficacy of each technology in treating or neutralizing biological or chemical agents that could be introduced into a drinking water supply by a terrorist or act of terrorism.

“(C) USE OF INHERENTLY SAFER TECHNOLOGIES.—

“(i) IN GENERAL.—Subject to clause (ii), not later than 90 days after the date of submission of the options feasibility assessment required under this paragraph, the owner or operator of a high-consequence water facility, in consultation with the Administrator,

the Secretary, the United States Chemical Safety and Hazard Investigation Board, local officials, and other interested parties, shall determine which inherently safer technologies are to be used by the high-consequence water facility.

“(ii) CONSIDERATIONS.—In making the determination under clause (i), an owner or operator—

“(I) may consider transition costs estimated in the options feasibility assessment of the owner or operator (except that those transition costs shall not be the sole basis for the determination of the owner or operator);

“(II) shall consider long-term security enhancement of the high-consequence water facility;

“(III) shall consider comparable water facilities that have transitioned to inherently safer technologies; and

“(IV) shall consider the overall security impact of the determination, including on the production, processing, and transportation of substances of concern at other facilities.

“(c) ENFORCEMENT.—

“(1) IN GENERAL.—In accordance with the tiers and priority system established under subsection (b)(2)(B), subject to paragraph (2), the Administrator—

“(A) shall prioritize the use of inherently safer technologies at high-consequence facilities listed under subsection (b)(1);

“(B) subject to the availability of grant funds under this section, not later than 90 days after the date on which the Administrator receives an options feasibility assessment from an owner or operator of a high-consequence water facility under subsection (b)(3)(A), shall issue an order requiring the high-consequence water facility to eliminate the use of 1 or more substances of concern and adopt 1 or more inherently safer technologies; and

“(C) may seek enforcement of an order issued under paragraph (2) in the appropriate United States district court.

“(2) DE MINIMIS USE.—Nothing in this section prohibits the de minimis use of a substance of concern as a residual disinfectant.

“(d) GRANTS.—

“(1) IN GENERAL.—In accordance with the tiers and priority system established under subsection (b)(2)(B), the Administrator shall provide grants to high-consequence facilities (including high-consequence facilities subject to an order issued under subsection (c)(1)(C) and water facilities described in paragraph (6)) for use in paying capital expenditures directly required to complete the transition of the high-consequence water facility to the use of 1 or more inherently safer technologies.

“(2) APPLICATION.—A high-consequence water facility that seeks to receive a grant under this subsection shall submit to the Administrator an application by such date, in such form, and containing such information as the Administrator shall require, including information relating to the transfer to inherently safer technologies, and the proposed date of such a transfer, described in subsection (b)(3)(B).

“(3) DEADLINE FOR TRANSITION.—An owner or operator of a high-consequence water facility that is subject to an order under subsection (c)(1)(C) and that receives a grant under this subsection shall begin the transition to inherently safer technologies described in paragraph (1) not later than 90 days after the date of issuance of the order under subsection (c)(1)(C).

“(4) FACILITY UPGRADES.—An owner or operator of a high-consequence water facility—

“(A) may complete the transition to inherently safer technologies described in para-

graph (1) within the scope of a greater facility upgrade; but

“(B) shall use amounts from a grant received under this subsection only for the capital expenditures directly relating to the transition to inherently safer technologies.

“(5) OPERATIONAL COSTS.—An owner or operator of a high-consequence water facility that receives a grant under this subsection may not use funds from the grant to pay or offset any ongoing operational cost of the high-consequence water facility.

“(6) OTHER REQUIREMENTS.—As a condition of receiving a grant under this subsection, the owner or operator of a high-consequence water facility shall—

“(A) upon receipt of a grant, track all cost savings resulting from the transition to inherently safer technologies, including those savings identified in subsection (b)(4)(B)(iii); and

“(B) for each fiscal year for which grant funds are received, return an amount to the Administrator equal to 50 percent of the savings achieved by the high-consequence water facility (but not to exceed the amount of grant funds received for the fiscal year) for use by the Administrator in facilitating the future transition of other high-consequence water facilities to the use of inherently safer technologies.

“(7) INTERIM TRANSITIONS.—A water facility that transitioned to the use of 1 or more inherently safer technologies after September 11, 2001, but before the date of enactment of this section, and that qualifies as a high-consequence facility under subsection (b)(2), in accordance with any previous report submitted by the water facility under section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)) and as determined by the Administrator, shall be eligible to receive a grant under this subsection.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$125,000,000 for each of fiscal years 2007 through 2011.”

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 485—TO EXPRESS THE SENSE OF THE SENATE CONCERNING THE VALUE OF FAMILY PLANNING FOR AMERICAN WOMEN

Mrs. CLINTON (for herself, Ms. CANTWELL, Mr. MENENDEZ, Mr. KERRY, Mr. LAUTENBERG, Mrs. MURRAY, Mr. KENNEDY, Mr. SCHUMER, Mrs. BOXER, Mr. HARKIN, Mrs. FEINSTEIN, and Ms. LANDRIEU) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 485

Whereas the United States has one of the highest rates of abortion in the industrialized world;

Whereas reducing unintended pregnancies will reduce the number of abortions;

Whereas one of the most effective ways to prevent unintended pregnancy is to improve access to safe, affordable, effective family planning;

Whereas contraceptive use has declined (slightly among all women and precipitously among low-income women) and, as a result, unplanned pregnancy rates have risen among low-income women by 30 percent;

Whereas the impact of contraceptive use is hard to overstate — 11 percent of women in the United States who do not use contraception account for ½ of all unintended pregnancies;

Whereas low-income women today are 4 times as likely to have an unintended pregnancy and more than 4 times as likely to have an abortion as higher-income women;

Whereas abortion rates have increased among low-income women, even as they have continued to decrease among more affluent women;

Whereas 12,800,000 women of reproductive age are uninsured and 9,300,000 women of reproductive age live in poverty;

Whereas lack of coverage for contraception and other health care costs result in women of reproductive age paying 68 percent more in out-of-pocket costs for health care services than do men of the same age;

Whereas family planning is a vital part of helping women achieve the best health outcomes for both women and their babies; and

Whereas Women's Health Week is a time to recognize the important role family planning services play in the lives of women across the United States: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) Congress should help women, regardless of income, avoid unintended pregnancy and abortion through access to affordable contraception; and

(2) Congress should support programs and policies that make it easier for women to obtain contraceptives.

### SENATE RESOLUTION 486—DESIGNATING JUNE 2006 AS “NATIONAL INTERNET SAFETY MONTH”

Ms. MURKOWSKI (for herself, Mr. ALLEN, Mr. CRAIG, Mr. STEVENS, Mr. VITTER, Mrs. LANDRIEU, Mrs. DOLE, Mr. CRAPO, Mr. BURNS, Mrs. LINCOLN, Mr. WARNER, Mr. JOHNSON, Mr. ROBERTS, Mr. SANTORUM, and Mr. DEWINE) submitted the following resolution; which was considered and agreed to:

S. RES. 486

Whereas, in the United States, more than 90 percent of children between the ages of 5 years old and 17 years old, or approximately 47,000,000 children, now use computers;

Whereas approximately 59 percent of children in that age group, or approximately 31,000,000 children, use the Internet;

Whereas approximately 26 percent of the children of the United States in grades 5 through 12 are online for more than 5 hours a week;

Whereas approximately 12 percent of those children spend more time online than they spend interacting with their friends;

Whereas approximately 53 percent of the children and teens of the United States like to be alone when “surfing” the Internet;

Whereas approximately 29 percent of those children believe that their parents would express concern, restrict their Internet use, or take away their computer if their parents knew which sites they visited while surfing on the Internet;

Whereas approximately 32 percent of the students of the United States in grades 5 through 12 feel that they have the skills to bypass protections offered by the installation of filtering software;

Whereas approximately 31 percent of the youths of the United States have visited an inappropriate website on the Internet;

Whereas approximately 18 percent of those children have visited an inappropriate website more than once;

Whereas approximately 51 percent of the students of the United States in grades 5 through 12 trust the individuals that they chat with on the Internet;

Whereas approximately 33 percent of the students of the United States in grades 5



through 12 have chatted on the Internet with an individual whom they have not met in person;

Whereas approximately 11.5 percent of those students have later met with a stranger with whom they chatted on the Internet;

Whereas approximately 39 percent of the youths of the United States in grades 5 through 12 have admitted to giving out their personal information, including their name, age, and gender, over the Internet; and

Whereas approximately 14 percent of those youths have received mean or threatening email while on the Internet: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates June 2006 as “National Internet Safety Month”;

(2) recognizes that National Internet Safety Month provides the citizens of the United States with an opportunity to learn more about—

(A) the dangers of the Internet; and

(B) the importance of being safe and responsible online;

(3) commends and recognizes national and community organizations for—

(A) promoting awareness of the dangers of the Internet; and

(B) providing information and training that develops critical thinking and decision-making skills that are needed to use the Internet safely; and

(4) calls on Internet safety organizations, law enforcement, educators, community leaders, parents, and volunteers to increase their efforts to raise the level of awareness for the need for online safety in the United States.

#### SENATE RESOLUTION 487—EXPRESSING THE SENSE OF THE SENATE WITH REGARD TO THE IMPORTANCE OF WOMEN'S HEALTH WEEK, WHICH PROMOTES AWARENESS OF DISEASES THAT AFFECT WOMEN AND WHICH ENCOURAGES WOMEN TO TAKE PREVENTIVE MEASURES TO ENSURE GOOD HEALTH

Mr. FEINGOLD (for himself and Ms. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 487

Whereas women of all backgrounds have the power to greatly reduce their risk of common diseases through preventive measures such as a healthy lifestyle and frequent medical screenings;

Whereas significant disparities exist in the prevalence of disease among women of different backgrounds, including women with disabilities, African American women, Asian/Pacific Islander women, Latinas, and American Indian/Alaska Native women;

Whereas since healthy habits should begin at a young age, and preventive care saves Federal dollars designated to health care, it is important to raise awareness among women and girls of key female health issues;

Whereas National Women's Health Week begins on Mother's Day annually and celebrates the efforts of national and community organizations working with partners and volunteers to improve awareness of key women's health issues; and

Whereas in 2006, the week of May 14 through May 20, is dedicated as the National Women's Health Week: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the importance of preventing diseases that commonly affect women;

(2) calls on the people of the United States to use Women's Health Week as an opportunity to learn about health issues that face women;

(3) calls on the women of the United States to observe National Women's Check-Up Day on Monday, May 15, 2006, by receiving preventive screenings from their health care providers; and

(4) recognizes the importance of federally funded programs that provide research and collect data on common diseases in women and highlight racial disparities in the rates of these diseases.

#### SENATE RESOLUTION 488—EXPRESSING THE SENSE OF CONGRESS THAT INSTITUTIONS OF HIGHER EDUCATION SHOULD ADOPT POLICIES AND EDUCATIONAL PROGRAMS ON THEIR CAMPUSES TO HELP DETER AND ELIMINATE ILLICIT COPYRIGHT INFRINGEMENT OCCURRING ON, AND ENCOURAGE EDUCATIONAL USES OF, THEIR COMPUTER SYSTEMS AND NETWORKS

Mr. ALEXANDER (for himself, Mr. LEAHY, Mr. HATCH, Mr. NELSON of Florida, and Mr. FRIST) submitted the following resolution; which was considered and agreed to:

S. RES. 488

Whereas the colleges and universities of the United States play a critically important role in educating young people;

Whereas the colleges and universities of the United States are responsible for helping to build and shape the educational foundation of their students, as well as the values of their students;

Whereas the colleges and universities of the United States play an integral role in the development of a civil and ordered society founded on the rule of law;

Whereas the colleges and universities of the United States have been the origin of much of the creativity and innovation throughout the history of the United States;

Whereas much of the most valued intellectual property of the United States has been developed as a result of the colleges and universities of the United States;

Whereas the United States has, since its inception, realized the value and importance of intellectual property protection in encouraging creativity and innovation;

Whereas intellectual property is among the most valuable assets of the United States;

Whereas the importance of music, motion picture, software, and other intellectual property-based industries to the overall health of the economy of the United States is significant and well documented;

Whereas the colleges and universities of the United States are uniquely situated to advance the importance and need for strong intellectual property protection;

Whereas intellectual property-based industries are under increasing threat from all forms of global piracy, including hard goods and digital piracy;

Whereas the pervasive use of so-called peer-to-peer (P2P) file sharing networks has led to rampant illegal distribution and reproduction of copyrighted works;

Whereas the Supreme Court, in *MGM Studios Inc. v. Grokster, Ltd.*, reviewed evidence of users' conduct on just two peer-to-peer networks and noted that, “the probable scope of copyright infringement is staggering” (125 S. Ct. 2764, 2772 (2005));

Whereas Justice Breyer, in his opinion in *MGM Studios Inc. v. Grokster, Ltd.*, wrote

that “deliberate unlawful copying is no less an unlawful taking of property than garden-variety theft” (125 S. Ct. 2764, 2793 (2005));

Whereas many computer systems of the colleges and universities of the United States, including local area networks under the control of such colleges and universities, may be illicitly utilized by students and employees to further unlawful copying;

Whereas throughout the course of the past few years, Federal law enforcement has repeatedly executed search warrants against computers and computer systems located at colleges and universities, and has convicted students and employees of colleges and universities for their role in criminal intellectual property crimes;

Whereas in addition to illicit activity, illegal peer-to-peer use has multiple negative impacts on college computer systems;

Whereas individuals engaged in illegal downloading on college computer systems use significant amounts of system bandwidth which exist for the use of the general student population in the pursuit of legitimate educational purposes;

Whereas peer-to-peer use on college computer systems potentially exposes those systems to a myriad of security concerns, including spyware, viruses, worms or other malicious code which can be easily transmitted throughout the system by peer-to-peer networks;

Whereas, according to a recent study released by the Motion Picture Association of America, students at colleges and universities in the United States accounted for \$579,000,000 in losses to the motion picture industry of the United States in 2005, which represents 44 percent of that industry's annual losses due to piracy;

Whereas computer systems at colleges and universities exist for the use of all students and should be kept free of illicit activity;

Whereas college and university systems should continue to develop and to encourage respect for the importance of protecting intellectual property, the potential legal consequences of illegally downloading copyrighted works, and the additional security risks associated with unauthorized peer-to-peer use; and

Whereas it should be clearly established that illegal peer-to-peer use is prohibited and violations punished consistent with upholding the rule of law: Now, therefore, be it

*Resolved*, That—

(1) colleges and universities should continue to take a leadership role in educating students regarding the detrimental consequences of online infringement of intellectual property rights; and

(2) colleges and universities should continue to take steps to deter and eliminate unauthorized peer-to-peer use on their computer systems by adopting or continuing policies to educate and warn students about the risks of unauthorized use, and educate students about the intrinsic value of and need to protect intellectual property.

#### AMENDMENTS SUBMITTED & PROPOSED

SA 4085. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table.

SA 4086. Mr. WARNER (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4087. Mrs. FEINSTEIN (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill S. 2611, supra.

SA 4088. Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4089. Mr. DODD (for himself, Mr. LUGAR, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4090. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4091. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4092. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4093. Mr. KENNEDY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4094. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4095. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4096. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4097. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4098. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4099. Mr. OBAMA (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4100. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4101. Mrs. HUTCHISON (for herself and Mr. BOND) submitted an amendment intended to be proposed by her to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4102. Mr. SCHUMER (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4103. Mr. LEAHY (for himself, Mr. COLEMAN, Mr. LIEBERMAN, Mr. KENNEDY, Mr. CHAFEE, Mr. HARKIN, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4104. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4105. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4106. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

SA 4107. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2611, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 4085.** Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

### SEC. \_\_\_\_ . IDENTIFICATION REQUIREMENTS.

(a) REQUIREMENT FOR IDENTIFICATION CARDS TO INCLUDE CITIZENSHIP INFORMATION.—Subsection (b) of section 202 of the REAL ID Act of 2005 (49 U.S.C. 30301 note) is amended by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively, and by inserting after paragraph (7) the following new paragraph:

“(8) An indication of whether the person is a United States citizen.”.

(b) IDENTIFICATION REQUIRED FOR VOTING IN PERSON.—

(1) IN GENERAL.—Title III of the Help America Vote Act of 2002 (42 U.S.C. 15481 et seq.) is amended by redesignating sections 304 and 305 as sections 305 and 306, respectively, and by inserting after section 303 the following new section:

### “SEC. 304. IDENTIFICATION OF VOTERS AT THE POLLS.

“(a) IN GENERAL.—Notwithstanding the requirements of section 303(b), each State shall require individuals casting ballots in an election for Federal office in person to present before voting a current valid photo identification which is issued by a governmental entity and which meets the requirements of subsection (b) of section 202 of the REAL ID Act of 2005 (49 U.S.C. 30301 note).

“(b) EFFECTIVE DATE.—Each State shall be required to comply with the requirements of subsection (a) on and after May 11, 2008.”.

(2) CONFORMING AMENDMENT.—Section 401 of the Help America Vote Act of 2002 (42 U.S.C. 15511) is amended by striking “and 303” and inserting “303, and 304”.

(c) FUNDING FOR FREE PHOTO IDENTIFICATIONS.—Subtitle D of title II of the Help America Vote Act of 2002 (42 U.S.C. 15401 et seq.) is amended by adding at the end the following:

### “PART 7—PHOTO IDENTIFICATION

### “SEC. 297. PAYMENTS FOR FREE PHOTO IDENTIFICATION.

“(a) IN GENERAL.—In addition to any other payments made under this subtitle, the Election Assistance Commission shall make payments to States to promote the issuance to registered voters of free photo identifications for purposes of meeting the identification requirements of section 304.

“(b) ELIGIBILITY.—A State is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

“(1) a statement that the State intends to comply with the requirements of section 304; and

“(2) a description of how the State intends to use the payment under this part to provide registered voters with free photo identifications which meet the requirements of such section.

“(c) USE OF FUNDS.—A State receiving a payment under this part shall use the payment only to provide free photo identification cards to registered voters who do not have an identification card that meets the requirements of section 304.

“(d) ALLOCATION OF FUNDS.—

“(1) IN GENERAL.—The amount of the grant made to a State under this part for a year shall be equal to the product of—

“(A) the total amount appropriated for payments under this part for the year under section 298; and

“(B) an amount equal to—

“(i) the voting age population of the State (as reported in the most recent decennial census); divided by

“(ii) the total voting age population of all eligible States which submit an application for payments under this part (as reported in the most recent decennial census).

### “SEC. 298. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—In addition to any other amounts authorized to be appropriated under this subtitle, there are authorized to be appropriated such sums as are necessary for the purpose of making payments under section 297.

“(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.”.

**SA 4086.** Mr. WARNER (for himself and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title I, add the following:

### SEC. 133. REPORT ON INCENTIVES TO ENCOURAGE CERTAIN MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES TO SERVE IN THE BUREAU OF CUSTOMS AND BORDER PROTECTION.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report assessing the desirability and feasibility of offering incentives to covered members and former members of the Armed Forces for the purpose of encouraging such members to serve in the Bureau of Customs and Border Protection.

(b) COVERED MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.—For purposes of this section, covered members and former members of the Armed Forces are the following:

(1) Members of the reserve components of the Armed Forces.

(2) Former members of the Armed Forces within two years of separation from service in the Armed Forces.

(c) REQUIREMENTS AND LIMITATIONS.—

(1) NATURE OF INCENTIVES.—In considering incentives for purposes of the report required by subsection (a), the Secretaries shall consider such incentives, whether monetary or otherwise and whether or not authorized by current law or regulations, as the Secretaries jointly consider appropriate.

(2) TARGETING OF INCENTIVES.—In assessing any incentive for purposes of the report, the Secretaries shall give particular attention to the utility of such incentive in—

(A) encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by covered members and former of the Armed Forces who have provided border patrol or border security assistance to the Bureau as part of their duties as members of the Armed Forces; and

(B) leveraging military training and experience by accelerating training, or allowing credit to be applied to related areas of training, required for service with the Bureau of Customs and Border Protection.

(3) PAYMENT.—In assessing incentives for purposes of the report, the Secretaries shall assume that any costs of such incentives shall be borne by the Department of Homeland Security.

(d) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of various monetary and non-monetary incentives considered for purposes of the report.

(2) An assessment of the desirability and feasibility of utilizing any such incentive for the purpose specified in subsection (a), including an assessment of the particular utility of such incentive in encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by covered members and former members of the Armed Forces described in subsection (c)(2).

(3) Any other matters that the Secretaries jointly consider appropriate.

(e) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Armed Services, Homeland Security and Governmental Affairs, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Homeland Security, and Appropriations of the House of Representatives.

**SA 4087.** Mrs. FEINSTEIN (for herself and Mr. HARKIN) submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

On page 345 strike line 10 and all that follows through page 395 line 23, and insert the following:

**Subtitle A—Earned Adjustment of Status**  
**SEC. 601. ORANGE CARD VISA PROGRAM.**

(a) **SHORT TITLE.**—This section may be cited as the “Orange Card Program”.

(b) **EARNED 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.**—Subject to subsection (c)(5) and notwithstanding any other provision of law, including section 244(h), the Secretary of Homeland Security shall adjust an alien’s status to the status of an alien lawfully admitted for orange card status, if the alien satisfies the following requirements:

“(A) **APPLICATION.**—The alien shall file an application establishing eligibility for adjustment of status in accordance with the procedures established under subsection (n) 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 January 1, 2006;

“(II) was not legally present in the United States on or before January 1, 2006, under any classification set forth in section 101(a)(15); and

“(III) did not depart from the United States on or before January 1, 2006, except for brief, casual, and innocent departures.

“(ii) **LEGALLY PRESENT.**—For purposes of this subparagraph, an alien who has violated any conditions of the alien’s 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 THE UNITED STATES.**—

“(i) **IN GENERAL.**—The alien shall—

“(I) submit all documentation of the alien’s employment in the United States before January 1, 2006; and

“(II) be employed in the United States for at least 6 years, in the aggregate, after the date of the enactment of the Orange Card Program.

“(ii) **EXCEPTIONS.**—

“(I) **IN GENERAL.**—The employment requirement in clause (i) shall be reduced for an individual who—

“(aa) cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy; or

“(bb) is under 18 years of age on the date of the enactment of the Orange Card Program, 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 18 years of age.

“(II) **POSTSECONDARY STUDY.**—The employment requirements in clause (i) shall be reduced by 1 year for each year of completed full time postsecondary 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.**—An alien who is unable to submit a document described in subclause (I) may satisfy the requirement in clause (i) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment for each required period of employment, including—

“(aa) bank records;

“(bb) business records;

“(cc) sworn affidavits from nonrelatives who have direct knowledge of the alien’s work, including the name, address, and phone number of the affiant, the nature and duration of the relationship between the affiant and the alien, and other verification information; or

“(dd) remittance records.

“(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).

“(E) **PAYMENT OF INCOME TAXES.**—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 a knowledge and understanding of English and 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) **ANNUAL REPORTING REQUIREMENT.**—

“(i) **IN GENERAL.**—An alien who has applied for an adjustment of status under this section shall annually submit to the Secretary of Homeland Security the documentation described in clause (ii) and the fee required under subsection (m)(3).

“(ii) **DOCUMENTATION.**—The documentation submitted under clause (i) shall include evidence of employment described in subparagraph (D)(iv), proof of payment of taxes described in subparagraph (E), and documentation of any criminal conviction or an affidavit stating that the alien has not been convicted of any crime.

“(iii) **TERMINATION.**—The reporting requirement under this subparagraph shall terminate on the date on which the alien is granted the status of an alien lawfully admitted for permanent residence.

“(J) **ADJUSTMENT OF STATUS.**—An alien may not adjust to legal permanent residence status 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

Orange Card Program, 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 the enactment of the Orange Card Program, 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) INELIGIBILITY.—

“(A) IN GENERAL.—An alien is ineligible for adjustment to lawful permanent resident status under this section if—

“(i) the alien has been ordered removed from the United States—

“(I) for overstaying the period of authorized admission under section 217;

“(II) under section 235 or 238; or

“(III) pursuant to a final order of removal under section 240;

“(ii) the alien failed to depart the United States during the period of a voluntary departure order issued under section 240B;

“(iii) the alien is subject to section 241(a)(5);

“(iv) 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; or

“(v) the alien has been convicted of a felony or 3 or more misdemeanors.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), an alien who has not been ordered removed from the United States shall remain eligible for adjustment to lawful permanent resident status under this section if the alien's ineligibility under subparagraph (A) is solely related to the alien's—

“(i) entry into the United States without inspection;

“(ii) remaining in the United States beyond the period of authorized admission; or

“(iii) failure to maintain legal status while in the United States.

“(C) WAIVER.—The Secretary may, in the Secretary's sole and unreviewable discretion, waive the application of subparagraph (A) if the alien—

“(i) was ordered removed on the basis that the alien—

“(I) entered without inspection;

“(II) failed to maintain status; or

“(III) was ordered removed under 212(a)(6)(C)(i) before April 7, 2006; and

“(ii) demonstrates that—

“(I) the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a);

“(II) the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or

“(III) requiring the alien to depart from the United States would result in extreme hardship to the alien's spouse, parent, or child, who is a citizen of the United States or

an alien lawfully admitted for permanent residence.

“(7) 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 orange card 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);

“(B) reflects the benefits and status set forth in paragraph (1); and

“(C) contains a unique number that authorizes card holders who have resided longer in the United States to receive the status of lawful permanent resident before similarly situated card holders whose length of residence in the United States is shorter.

“(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.

“(5) ADJUSTMENT TO PERMANENT RESIDENCE.—

“(A) IN GENERAL.—The Secretary of Homeland Security shall adjust the status of an alien who satisfies all the requirements under subsection (a) to that of an alien lawfully admitted for permanent residence.

“(B) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted lawful permanent resident status under this section, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

“(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 APPROPRIATIONS; FINES; FEES.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security \$100,000,000 for fiscal year 2007, which shall remain available until expended, to carry out this section.

“(2) FINE.—An alien who files an application under this section (except for an alien under 18 years of age) shall pay a fine equal to \$2,000.

“(3) FEE.—Annual processing fee of \$50.

“(4) IMMIGRATION EXAMINATIONS FEE ACCOUNT.—Of the amounts collected each fiscal year under paragraphs (2) and (3), the Secretary of Homeland Security shall deposit—

“(A) \$10,000,000 into the General Fund of the Treasury, until an amount equal to the amount appropriated pursuant to paragraph (1) has been deposited under this subparagraph; and

“(B) the remaining amount into the Immigration Examinations Fee Account established under section 286(m).

“(5) USE OF AMOUNTS COLLECTED.—Of the amounts deposited into the Immigration Examinations Fee Account under paragraph (4)(B)—

“(A) such amounts as may be necessary shall be available, without fiscal year limitation, to—

“(i) the Secretary of Homeland Security to implement this section and to process applications received under this section; and

“(ii) the Secretary of Homeland Security and the Secretary of State for administrative and other expenses incurred in connection with the review of applications filed by immediate relatives of aliens applying for adjustment of status under this section; and

“(B) any amounts not expended under subparagraph (A) shall be available to the Secretary of Homeland Security to improve border security.

“(n) RULEMAKING.—

“(1) IN GENERAL.—Not later than 120 days after the date of the enactment of the Orange Card Program, the Secretary of Homeland Security shall issue regulations to implement this section.

“(2) APPLICATION PROCESSING PROCEDURE.—The regulations issued under paragraph (1) shall include a procedure for the orderly, efficient, and effective processing of applications received under this section. Such procedure shall require the Secretary of Homeland Security to—

“(A) permit applications under this section to be filed electronically, to the extent possible; and

“(B) allow for initial registration with fingerprints of applicants to be followed by a personal appointment and completed application.”.

(2) TABLE OF CONTENTS.—The table of contents is amended by inserting after the item relating to section 245A the following:

“Sec. 245B. Access to earned adjustment.”.

**SA 4088.** Mr. DODD submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 95, strike line 23 and all that follows through page 96, line 21, and insert the following:

“(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or 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 7 years or more than 25 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 7 years or more than 25 years, or both;

“(D) shall be fined under such title, imprisoned not less than 7 years or more than 25 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 inhuman conditions to another person, including—

**SA 4089.** Mr. DODD (for himself, Mr. LUGAR, and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following new section:

**SEC. .**

(a) FINDINGS—

(1) There are currently between 10–12 million illegal immigrants in the United States in 2006.

(2) As many as 70% of such migrants are citizens of Mexico.

(3) More than 1 million illegal migrants are apprehended annually in the United States southern border area attempting to illegally enter the United States, with an additional 500,000 entering undetected.

(4) Despite Operation Gatekeeper which began in 1994 with the construction of fencing in urban crossing areas and other efforts to stem the flow of illegal immigration, the flow of such migration has continued at high levels.

(5) Migrants have continued to cross into remote rural areas where difficult terrain and climate conditions have caused the deaths of some 2500 migrants over the last decade.

(6) Communities on both sides of the border will be impacted by the construction of additional fences and security structures.

(7) Illegal immigration cannot be permanently resolved or contained without the cooperation of Mexico and other countries that are the source of such migration.

(8) After some years of turning a blind eye to the migrant problem, Mexican authorities have recently acknowledged their responsibility for addressing illegal migration by Mexican citizens.

(9) It is in the interest of the United States to have the full cooperation of Mexican authorities in tackling illegal migration and other border security issues.

(b) CONSULTATION REQUIREMENT.—Consultations between United States and Mexican authorities at the federal, state, and local levels concerning the construction of additional fencing and related border security structures along the United States-Mexico border shall be undertaken prior to commencing any new construction, in order to solicit the views of affected communities, lessen tensions and foster greater understanding and stronger cooperation on this and other important issues of mutual concern.

**SA 4090.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title VII, insert the following new section:

**SEC. 766. GLOBAL HEALTHCARE COOPERATION.**

(a) GLOBAL HEALTHCARE COOPERATION.—Title III (8 U.S.C. 1401 et seq.) is amended by inserting after section 317 the following:

**“SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING HEALTHCARE IN DEVELOPING COUNTRIES.**

“(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary of Homeland Security shall allow an eligible alien and the spouse or child of such alien to reside in a candidate country during the period that the eligible alien is working as a physician or other healthcare worker in a candidate country. During such period the eligible alien and such spouse or child shall be considered—

“(1) to be physically present and residing in the United States for purposes of naturalization under section 316(a); and

“(2) to meet the continuous residency requirements under section 316(b).

“(b) DEFINITIONS.—In this section:

“(1) CANDIDATE COUNTRY.—The term ‘candidate country’ means a country that the Secretary of State determines is—

“(A) eligible for assistance from the International Development Association, in which the per capita income of the country is equal to or less than the historical ceiling of the International Development Association for

the applicable fiscal year, as defined by the International Bank for Reconstruction and Development;

“(B) classified as a lower middle income country in the then most recent edition of the World Development Report for Reconstruction and Development published by the International Bank for Reconstruction and Development and having an income greater than the historical ceiling for International Development Association eligibility for the applicable fiscal year; or

“(C) qualifies to be a candidate country due to special circumstances, including natural disasters or public health emergencies.

“(2) ELIGIBLE ALIEN.—The term ‘eligible alien’ means an alien who—

“(A) has been lawfully admitted to the United States for permanent residence; and

“(B) is a physician or other healthcare worker.

“(c) CONSULTATION.—The Secretary of Homeland Security shall consult with the Secretary of State in carrying out this subsection.

“(d) PUBLICATION.—The Secretary of State shall publish—

“(1) not later than 6 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, a list of candidate countries; and

“(2) an immediate amendment to such list at any time to include any country that qualifies as a candidate country due to special circumstances under subsection (b)(1)(C).”.

(b) RULEMAKING.—

(1) REQUIREMENT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENT.—The regulations required by paragraph (1) shall—

(A) permit an eligible alien (as defined in section 317A of the Immigration and Nationality Act, as added by subsection (a)) and the spouse or child of the eligible alien to reside in a foreign country to work as a physician or other healthcare worker as described in subsection (a) of such section 317A for not less than a 12-month period and not more than a 24-month period, and shall permit the Secretary to extend such period for an additional period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(B) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(C) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The Immigration and Nationality Act is amended as follows:

(1) Section 101(a)(13)(C)(ii) (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding at the end “except in the case of an eligible alien, or the spouse or child of such alien, authorized to be absent from the United States pursuant to section 317A.”.

(2) Section 211(b) (8 U.S.C. 1181(b)) is amended by inserting “, including an eligible alien authorized to reside in a foreign country pursuant to section 317A and the spouse or child of such eligible alien, if appropriate,” after “101(a)(27)(A).”.



(3) Section 212(a)(7)(A)(i)(I) (8 U.S.C. 1182(a)(7)(A)(i)(I)) is amended by inserting "other than an eligible alien authorized to reside in a foreign country pursuant to section 317A and the spouse or child of such eligible alien, if appropriate," after "Act,".

(4) Section 319(b)(1)(B) (8 U.S.C. 1430(b)(1)(B)) is amended by inserting "an eligible alien who is residing or has resided in a foreign country pursuant to section 317A" before "and" at the end.

(5) The table of contents is amended by inserting after the item relating to section 317 the following:

"Sec. 317A. Temporary absence of aliens providing healthcare in developing countries."

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Bureau of Citizenship and Immigration Services such sums as may be necessary to carry out this section and the amendments made by this section.

#### SEC. 767. ATTESTATION BY HEALTHCARE WORKERS.

(a) REQUIREMENT FOR ATTESTATION.—Section 212(a)(5) (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following new subparagraph:

"(E) HEALTHCARE WORKERS WITH OTHER OBLIGATIONS.—

"(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other healthcare worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

"(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other healthcare worker in consideration for a commitment to work as a physician or other healthcare worker in the alien's country of origin or the alien's country of residence.

"(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

"(I) the obligation was incurred by coercion or other improper means;

"(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

"(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver."

(b) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 180 days after the date of the enactment of this Act.

(2) APPLICATION BY THE SECRETARY.—The Secretary shall begin to carry out the subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), as added by subsection (a), not later than the effective date described in paragraph (1), including the requirement for the attestation and the granting of a waiver

described in such subparagraph, regardless of whether regulations to implement such subparagraph have been promulgated.

**SA 4091.** Mrs. CLINTON submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ NONIMMIGRANT STATUS FOR SPOUSES AND CHILDREN OF PERMANENT RESIDENTS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.

Section 101(a)(15)(V) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(V)) is amended—

(1) by striking "the date of the enactment of the Legal Immigration Family Equity Act" and inserting "January 1, 2011"; and

(2) by striking "3 years" each place it appears and inserting "180 days".

**SA 4092.** Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 348, between lines 21 and 22, insert the following:

"(V) The employment requirement under clause (i)(I) shall not apply to any individual who is 65 years of age or older on the date of the enactment of the Immigrant Accountability Act of 2006.

On page 375, between lines 16 and 17, insert the following:

"(C) EXEMPTION.—The employment requirement under subparagraph (A) shall not apply to any individual who is 65 years of age or older on the date of the enactment of the Immigrant Accountability Act of 2006.

**SA 4093.** Mr. KENNEDY (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in title V, insert the following:

#### DETERMINATIONS WITH RESPECT TO CHILDREN UNDER THE HAITIAN AND IMMIGRANT FAIRNESS ACT OF 1998.

(a) IN GENERAL.—Section 902(d) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended by adding at the end the following:

"(3) DETERMINATIONS WITH RESPECT TO CHILDREN.—

"(A) USE OF APPLICATION FILING DATE.—Determinations made under this subsection as to whether an individual is a child of a parent shall be made using the age and status of the individual on October 21, 1998.

"(B) APPLICATION SUBMISSION BY PARENT.—Notwithstanding paragraph (1)(C), an application under this subsection filed based on status as a child may be filed for the benefit of such child by a parent or guardian of the child, if the child is physically present in the United States on such filing date."

(b) NEW APPLICATIONS AND MOTIONS TO REOPEN.—

(1) NEW APPLICATIONS.—Notwithstanding section 902a(a)(1)(A) of the Haitian and Immigrant Fairness Act of 1998, an alien who is eligible for adjustment of status under such Act, as amended by subsection (a), may submit an application for adjustment of status under such Act not later than the later of—

(A) 2 years after the date of the enactment of this Act; and

(B) 1 year after the date on which final regulations implementing this section are promulgated.

(2) MOTIONS TO REOPEN.—The Secretary of Homeland Security shall establish procedures for the reopening and reconsideration of applications for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 that are affected by the amendments under subsection (a).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—Section 902(a)(3) of the Haitian and Immigrant Fairness Act of 1998 shall apply to an alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily, and who files an application under paragraph (1), or a motion under paragraph (2), in the same manner as such section 902(a)(3) applied to aliens filing applications for adjustment of status under such Act before April 1, 2000.

#### SEC. 3. INADMISSIBILITY DETERMINATION.

Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended in subsections (a)(1)(B) and (d)(1)(D) by inserting "(6)(C)(i)," after "(6)(A)."

**SA 4094.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ PROMOTING CIRCULAR MIGRATION PATTERNS.

(a) LABOR MIGRATION FACILITATION PROGRAMS.—

(1) IN GENERAL.—The Secretary of State is authorized to enter into agreements, with the appropriate officials of foreign governments whose nationals participate in the temporary guest worker program authorized under section 218A of the Immigration and Nationality Act, as added by section 403 of this Act, for the purposes of jointly establishing and administering labor migration facilitation programs.

(2) PRIORITY.—The Secretary of State shall place a priority on establishing labor migration facilitation programs under paragraph (1) with the governments of countries that have a large number of nationals working as temporary guest workers in the United States under section 218A of such Act. The Secretary shall enter into such agreements not later than 3 months after the date of the enactment of this Act or as soon thereafter as is practicable.

(3) ELEMENTS OF PROGRAM.—A program established under paragraph (1) may provide for—

(A) the Secretary of State, in conjunction with the Secretary and the Secretary of Labor, to confer with appropriate officials of the foreign government to—

(i) establish and implement a program to assist temporary guest workers from the foreign country to obtain nonimmigrant status under section 101(a)(15)(H)(ii)(c) of such Act; and

(ii) establish programs to create economic incentives for aliens to return to their country of origin;

(B) the foreign government to—

(i) monitor the participation of its nationals in the temporary guest worker program, including departure from and return to their country of origin;

(ii) develop and promote a reintegration program available to such individuals upon their return from the United States; and

(iii) promote or facilitate travel of such individuals between their country of origin and the United States; and

(C) any other matters that the Secretary of State and the appropriate officials of the foreign government consider appropriate to enable nationals of the foreign country who are participating in the temporary work program to maintain strong ties to their country of origin.

(b) BILATERAL EFFORTS WITH MEXICO TO REDUCE MIGRATION PRESSURES AND COSTS.—

(1) FINDINGS.—Congress makes the following findings:

(A) Migration from Mexico to the United States is directly linked to the degree of economic opportunity and the standard of living in Mexico.

(B) Mexico comprises a prime source of migration to the United States.

(C) Remittances from Mexican citizens working in the United States reached a record high of nearly \$17,000,000,000 in 2004.

(D) Migration patterns may be reduced from Mexico to the United States by addressing the degree of economic opportunity available to Mexican citizens.

(E) Many Mexican assets are held extra-legally and cannot be readily used as collateral for loans.

(F) A majority of Mexican businesses are small- or medium-sized with limited access to financial capital.

(G) These factors constitute a major impediment to broad-based economic growth in Mexico.

(H) Approximately 20 percent of the population of Mexico works in agriculture, with the majority of this population working on small farms rather than large commercial enterprises.

(I) The Partnership for Prosperity is a bilateral initiative launched jointly by the President of the United States and the President of Mexico in 2001, which aims to boost the social and economic standards of Mexican citizens, particularly in regions where economic growth has lagged and emigration has increased.

(J) The Presidents of Mexico and of the United States and the Prime Minister of Canada, at their trilateral summit on March 23, 2005, established the Security and Prosperity Partnership of North America to promote economic growth, competitiveness, and quality of life throughout North America.

(2) SENSE OF CONGRESS REGARDING PARTNERSHIP FOR PROSPERITY.—It is the sense of Congress that the United States and Mexico should accelerate the implementation of the Security and Prosperity Partnership of North America to help generate economic growth and improve the standard of living in Mexico, which will lead to reduced migration, by—

(A) increasing access for poor and under served populations in Mexico to the financial services sector, including credit unions;

(B) assisting Mexican efforts to formalize its extra-legal sector, including the issuance of formal land titles, to enable Mexican citizens to use their assets to procure capital;

(C) facilitating Mexican efforts to establish an effective rural lending system for small- and medium-sized farmers that will—

(i) provide long term credit to borrowers;

(ii) develop a viable network of regional and local intermediary lending institutions; and

(iii) extend financing for alternative rural economic activities beyond direct agricultural production;

(D) expanding efforts to reduce the transaction costs of remittance flows in order to increase the pool of savings available to help finance domestic investment in Mexico;

(E) encouraging Mexican corporations to adopt internationally recognized corporate

governance practices, including anti-corruption and transparency principles;

(F) enhancing Mexican efforts to strengthen governance at all levels, including efforts to improve transparency and accountability, and to eliminate corruption, which is the single biggest obstacle to development;

(G) assisting the Government of Mexico in implementing all provisions of the Inter-American Convention Against Corruption (ratified by Mexico on May 27, 1997) and urging the Government of Mexico to participate fully in the Convention's formal implementation monitoring mechanism;

(H) helping the Government of Mexico to strengthen education and training opportunities throughout the country, with a particular emphasis on improving rural education; and

(I) encouraging the Government of Mexico to create incentives for persons who have migrated to the United States to return to Mexico.

(3) SENSE OF CONGRESS REGARDING BILATERAL PARTNERSHIP ON HEALTH CARE.—It is the sense of Congress that the Government of the United States and the Government of Mexico should enter into a partnership to examine uncompensated and burdensome health care costs incurred by the United States due to legal and illegal immigration, including—

(A) increasing health care access for poor and under served populations in Mexico;

(B) assisting Mexico in increasing its emergency and trauma health care facilities along the border, with emphasis on expanding prenatal care in the region along the international border between the United States and Mexico;

(C) facilitating the return of stable, incapacitated workers temporarily employed in the United States to Mexico in order to receive extended, long-term care in their home country; and

(D) helping the Government of Mexico to establish a program with the private sector to cover the health care needs of Mexican nationals temporarily employed in the United States.

**SA 4095.** Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 250, strike lines 5 through 10, and insert the following:

“(a) AUTHORITY.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Homeland Security may grant a temporary visa to an H-2C non-immigrant 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)).

“(2) SUNSET.—Notwithstanding any other provision of law, after the date that is 5 years after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, no alien may be issued a new visa as an H-2C nonimmigrant for an initial period of authorized admission under subsection (f)(1). The Secretary of Homeland Security may continue to issue an extension of a temporary visa issued to an H-2C nonimmigrant pursuant to such subsection after such date.

**SA 4096.** Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 184, strike lines 5 through 24, and insert the following:

“(3) CONTRACTOR LIABILITY FOR EMPLOYMENT OF UNAUTHORIZED WORKERS.—A person or other entity shall not be liable for a penalty under subsection (e)(4)(A) with respect to the violation of subsection (a)(1)(A), (a)(1)(B), or (a)(2) with respect to the hiring or continuation of employment of an unauthorized alien by a subcontractor of that person or entity unless the person or entity knew that the subcontractor hired or continued to employ such alien in violation of such subsection.

**SA 4097.** Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

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

“(e) CONFIDENTIALITY OF INFORMATION.—

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

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

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

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

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

“(A) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested by such entity; or

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

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

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

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

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

**SA 4098.** Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for

comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ . ANNUAL REPORT ON THE NORTH AMERICAN DEVELOPMENT BANK.**

Section 2 of Public Law 108-215 (22 U.S.C. 290m-6) is amended—

(1) in paragraph (1), by inserting after “The number” the following: “of applications received by, pending with, and awaiting final approval from the Board of the North American Development Bank and the number”; and

(2) by adding at the end the following:

“(8) Recommendations on how to improve the operations of the North American Development Bank.

“(9) An update on the implementation of this Act, including the business process review undertaken by the North American Development Bank.

“(10) A description of the activities and accomplishments of the North American Development Bank during the previous year, including a brief summary of meetings and actions taken by the Board of the North American Development Bank.”.

**SA 4099.** Mr. OBAMA (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

Strike title III and insert the following:

**TITLE III—UNLAWFUL EMPLOYMENT OF ALIENS**

**SEC. 301. UNLAWFUL EMPLOYMENT OF ALIENS.**

(a) IN GENERAL.—Section 274A (8 U.S.C. 1324a) is amended to read as follows:

**“SEC. 274A. UNLAWFUL EMPLOYMENT OF ALIENS.**

“(a) MAKING EMPLOYMENT OF UNAUTHORIZED ALIENS UNLAWFUL.—

“(1) IN GENERAL.—It is unlawful for an employer—

“(A) to hire, or to recruit or refer for a fee, an alien for employment in the United States knowing, or with reckless disregard, that the alien is an unauthorized alien with respect to such employment; or

“(B) to hire, or to recruit or refer for a fee, for employment in the United States an individual unless such employer meets the requirements of subsections (c) and (d).

“(2) CONTINUING EMPLOYMENT.—It is unlawful for an employer, after lawfully hiring an alien for employment, to continue to employ the alien in the United States knowing that the alien is (or has become) an unauthorized alien with respect to such employment.

“(3) USE OF LABOR THROUGH CONTRACT.—

“(A) IN GENERAL.—An employer who uses a contract, subcontract, or exchange to obtain the labor of an alien in the United States knowing, or with reckless disregard—

“(i) that the alien is an unauthorized alien with respect to performing such labor, shall be considered to have hired the alien in violation of paragraph (1)(A); or

“(ii) that the person hiring such alien failed to comply with the requirements of subsections (c) and (d) shall be considered to have hired the alien in violation of paragraph (1)(B).

“(B) INFORMATION SHARING.—The person hiring the alien shall provide to the employer who obtains the labor of the alien, the employer identification number assigned to such person by the Commissioner of Internal Revenue. Failure to provide such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

“(C) REPORTING REQUIREMENT.—The employer shall submit to the Electronic Employment Verification System established under subsection (d), in a manner prescribed by the Secretary, the employer identification number provided by the person hiring the alien. Failure to submit such number shall be considered a recordkeeping violation under subsection (e)(4)(B).

“(D) ENFORCEMENT.—The Secretary shall implement procedures to utilize the information obtained under subparagraphs (B) and (C) to identify employers who use a contract, subcontract, or exchange to obtain the labor of an alien from another person, where such person hiring such alien failed to comply with the requirements of this section.

“(4) 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 participating in such System on a voluntary basis, the employer may establish an affirmative defense under subparagraph (A) by complying with the requirements of subsection (c).

“(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 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 under paragraph (1) and for specific recordkeeping practices with respect to such certification, and procedures for the audit of any records related to such certification.

“(c) DOCUMENT VERIFICATION REQUIREMENTS.—An employer hiring, or recruiting or referring for a fee, an individual for employment in the United States shall verify that the individual is eligible for such employment by meeting the following requirements:

“(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 a document described in subparagraph (B).

“(ii) SIGNATURE REQUIREMENTS.—An attestation required by clause (i) may be manifested by a handwritten or electronic signature.

“(iii) STANDARDS FOR EXAMINATION.—The employer has complied with the requirement

of this paragraph with respect to examination of documentation if a reasonable person would conclude that the document examined is genuine and relates to the individual whose identity and eligibility for employment in the United States is being verified. If the individual provides a document sufficient to meet the requirements of this paragraph, nothing in this paragraph shall be construed as requiring an employer to solicit any other document or as requiring the individual to produce any other document.

“(B) IDENTIFICATION DOCUMENTS.—A document described in this subparagraph is—

“(i) a United States passport;

“(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 provided that such a card or document—

“(I) contains the individual's photograph or information, including the individual's name, date of birth, gender, eye color, and address; and

“(II) contains security features to make such license or card resistant to tampering, counterfeiting, or fraudulent use;

“(iii) in the case of an alien who is authorized under this Act or by the Secretary to be employed in the United States, an employment authorization card, as specified by the Secretary that—

“(I) contains a photograph of the individual or other identifying information, including name, date of birth, gender, and address; and

“(II) contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use;

“(iv) any other documents designated by the Secretary, if—

“(I) the Secretary has published a notice in the Federal Register stating that such a document is acceptable for purposes of this subparagraph; and

“(II) the document contains security features to make the document resistant to tampering, counterfeiting, and fraudulent use; or

“(v) until the date that an employer is required to participate in the Electronic Employment Verification System under subsection (d) or is participating in such System on a voluntary basis, a document, or a combination of documents, of such type that, as of the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary had established by regulation were sufficient for purposes of this section.

“(C) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—

“(i) AUTHORITY.—If the Secretary finds that a document or class of documents described in subparagraph (B) is not reliable to establish identity or is being used fraudulently to an unacceptable degree, the Secretary shall 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 described in paragraph (1)(A)(i), 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, or to be 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.—The employer shall retain a paper, microfiche, microfilm, or electronic version of the attestations made under paragraph (1) and (2) 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—

“(i) in the case of the recruiting or referral for a fee (without hiring) of an individual, 5 years after the date of the recruiting or referral; or

“(B) in the case of the hiring of an individual the later of—

“(i) 5 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.—Notwithstanding any other provision of law, an employer shall retain, for the applicable period described in paragraph (3), the following documents:

“(i) IN GENERAL.—The employer shall copy all documents presented by an individual described in paragraph (1)(B) and shall retain paper, microfiche, microfilm, or electronic copies of such documents. Such copies shall be designated as copied documents.

“(ii) OTHER DOCUMENTS.—The employer shall maintain records of any action taken and copies of any correspondence written or received with respect to the verification of an individual's identity or eligibility for employment in the United States, including a copy of the form described in subsection (a)(3)(B).

“(B) USE OF RETAINED DOCUMENTS.—An employer shall use copies retained under clause (i) or (ii) of subparagraph (A) only for the purposes of complying with the requirements of this subsection, except as otherwise permitted under law.

“(5) PENALTIES.—An employer that fails to comply with the recordkeeping requirements 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’) to determine whether—

“(A) the identifying information submitted by an individual is consistent with the information maintained by the Secretary or the Commissioner of Social Security; and

“(B) such individual is eligible for employment in the United States.

“(2) REQUIREMENT FOR PARTICIPATION.—The Secretary shall require all employers in the United States to participate in the System,

with respect to all employees hired by the employer on or after the date that is 18 months after the date that funds are appropriated and made available to the Secretary to implement this subsection.

“(3) OTHER PARTICIPATION IN SYSTEM.—Notwithstanding paragraph (2), the Secretary has the authority—

“(A) to permit any employer that is not required to participate in the System under paragraph (2) to participate in the System on a voluntary basis; and

“(B) to require any employer or class of employers to participate on a priority basis in the System with respect to employees hired prior to, on, or after the date of enactment of the Comprehensive Immigration Reform Act of 2006—

“(i) if the Secretary designates such employer or class of employers as a critical employer based on an assessment of homeland security or national security needs; or

“(ii) if the Secretary has reasonable cause to believe that the employer has engaged in material violations of paragraph (1), (2), or (3) of subsection (a).

“(4) REQUIREMENT TO NOTIFY.—The Secretary shall notify the employer or class of employers in writing regarding the requirement for participation in the System under paragraph (3)(B) not less than 60 days prior to the effective date of such requirement. Such notice shall include the training materials described in paragraph (8)(E)(v).

“(5) REGISTRATION OF EMPLOYERS.—An employer shall register the employer's participation in the System in the manner prescribed by the Secretary prior to the date the employer is required or permitted to submit information with respect to an employee under this subsection.

“(6) ADDITIONAL GUIDANCE.—A registered employer 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 facilitate compliance with—

“(A) the attestation requirement in subsection (c); and

“(B) the employment eligibility verification requirements in this subsection.

“(7) 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 employee—

“(A) such failure shall be treated as a violation of subsection (a)(1)(B); and

“(B) a rebuttable presumption is created that the employer has violated subsection (a)(1)(A), however, such presumption may not apply to a prosecution under subsection (f)(1).

“(8) DESIGN AND OPERATION OF SYSTEM.—

“(A) IN GENERAL.—The Secretary shall, through the System—

“(i) respond to each inquiry made by a registered employer through the Internet or other electronic media, or over a toll-free telephone line regarding an individual's identity and eligibility for employment in the United States; and

“(ii) maintain a record of each such inquiry and the information provided in response to such inquiry.

“(B) INITIAL INQUIRY.—

“(i) INFORMATION REQUIRED.—A registered employer shall, with respect to the hiring, or recruiting or referring for a fee, any individual for employment in the United States, obtain from the individual and record on the form described in subsection (c)(1)(A)(i)—

“(I) the individual's name and date of birth;

“(II) the individual's social security account number; and

“(III) 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 alien identification or authorization number that the Secretary shall require.

“(ii) SUBMISSION TO SYSTEM.—A registered 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 days 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 by a critical employer designated by the Secretary under paragraph (3)(B) at such time as the Secretary shall specify.

“(C) INITIAL RESPONSE.—Not later than 10 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, and after a secondary manual verification has been conducted, a tentative nonconfirmation notice, including the appropriate codes on such tentative nonconfirmation notice.

“(D) CONFIRMATION OR NONCONFIRMATION.—

“(i) CONFIRMATION UPON INITIAL INQUIRY.—If an employer receives a confirmation notice under paragraph (C)(i) for an individual, the employer shall record, on the form described in subsection (c)(1)(A)(i), the appropriate code provided in such notice.

“(ii) TENTATIVE NONCONFIRMATION.—If an employer receives a tentative nonconfirmation notice under paragraph (C)(ii) for an individual, the employer shall inform such individual of the issuance of such notice in writing, on a form prescribed by the Secretary not later than 3 days after receiving such notice. Such individual shall acknowledge receipt of such notice in writing on the form described in subsection (c)(1)(A)(i).

“(iii) NO CONTEST.—If the individual does not contest the tentative nonconfirmation notice within 10 days of receiving notice from the individual's employer, the notice shall become final and the employer shall record on the form described in subsection (c)(2), the appropriate code provided through the System to indicate the individual did not contest the tentative nonconfirmation. An individual's failure to contest a tentative nonconfirmation shall not be considered an admission of guilt with respect to any violation of this Act or any other provision of law.

“(iv) CONTEST.—If the individual contests the tentative nonconfirmation notice, the individual shall submit appropriate information to contest such notice under the procedures established in subparagraph (E)(iii) not later than 10 days after receiving the notice from the individual's employer.

“(v) EFFECTIVE PERIOD OF TENTATIVE NONCONFIRMATION NOTICE.—A tentative nonconfirmation notice shall remain in effect until such notice becomes final under clause (iii), or the earlier of—

“(I) a final confirmation notice or final nonconfirmation notice is issued through the System; or

“(II) 30 days after the individual contests a tentative nonconfirmation under clause (iv).

“(vi) AUTOMATIC FINAL NOTICE.—

“(I) IN GENERAL.—If a final notice is not issued within the 30-day period described in clause (v)(II), the Secretary shall automatically provide to the employer, through the System, the appropriate code indicating a final notice.

“(II) PERIOD PRIOR TO INITIAL CERTIFICATION.—During the period beginning on the date of the enactment of the Comprehensive Immigration Reform Act of 2006 and ending on the date the Secretary submits the initial report described in subparagraph (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice.

“(III) PERIOD AFTER INITIAL CERTIFICATION.—After the date that the Secretary submits the initial report described in subparagraph (E)(ii), an automatic notice issued under subclause (I) shall be a final confirmation notice unless the most recent such report includes a certification that the System is able to correctly issue, within the period beginning on the date an employer submits an inquiry to the System and ending on the date an automatic default notice would be issued by the System, a final notice in at least 99 percent of the cases in which the notice relates to an individual who is eligible for employment in the United States. If the most recent such report includes such a certification, the automatic notice issued under subclause (I) shall be a final nonconfirmation notice.

“(IV) ADDITIONAL AUTHORITY.—Notwithstanding the second sentence of subclause (III), the Secretary shall have the authority to issue a final confirmation notice for an individual who would be subject to a final nonconfirmation notice under such sentence. In such a case, the Secretary shall determine the individual's eligibility for employment in the United States and record the results of such determination in the System within 12 months.

“(vii) EFFECTIVE PERIOD OF FINAL NOTICE.—A final confirmation notice issued under this paragraph for an individual shall remain in effect—

“(I) during any continuous period of employment of such individual by such employer, unless the Secretary determines the final confirmation was the result of identity fraud; or

“(II) in the case of an alien authorized to be employed in the United States for a temporary period, during such period.

“(viii) 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 (iii) or a final nonconfirmation notice is issued for the individual by the System. Nothing in this clause shall prohibit the termination of employment for any reason other than such tentative nonconfirmation.

“(ix) RECORDING OF CONTEST RESOLUTION.—The employer shall record on the form described in subsection (c)(1)(A)(i) the appropriate code that is provided through the System to indicate a final confirmation notice or final nonconfirmation notice.

“(x) CONSEQUENCES OF NONCONFIRMATION.—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 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).

“(E) RESPONSIBILITIES OF THE SECRETARY.—“(i) IN GENERAL.—The Secretary shall establish a reliable, secure method to be used through the System, within the time periods required by this subsection—

“(I) a determination of whether the name and alien identification or authorization number provided in an inquiry by an employer is consistent with such information maintained by the Secretary in order to confirm the validity of the information provided; and

“(II) a determination of whether the individual is authorized to be employed in the United States.

“(ii) ANNUAL REPORT AND CERTIFICATION.—Not later than the date that is 24 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Secretary shall submit to Congress a report that includes—

“(I) an assessment of whether the System is able to correctly issue, within the period described in subparagraph (D)(v)(II), a final notice in at least 99 percent of the cases in which the final notice relates to an individual who is eligible for employment in the United States (excluding an individual who fails to contest a tentative nonconfirmation notice); and

“(II) if the assessment under subclause (I) is that the System is able to correctly issue within the specified time period a final notice in at least 99 percent of the cases described in such subclause, a certification of such assessment.

“(iii) CONTEST AND SELF-VERIFICATION.—The Secretary in consultation with the Commissioner of Social Security, shall establish procedures to permit an individual who contests a tentative or final nonconfirmation notice, or seeks to verify the individual's own employment eligibility prior to obtaining or changing employment, to contact the appropriate agency and, in a timely manner, correct or update the information used by the System.

“(iv) INFORMATION TO EMPLOYEE.—The Secretary shall develop a written form for employers to provide to individuals who receive a tentative or final nonconfirmation notice. Such form shall be made available in a language other than English, as necessary and reasonable, and shall include—

“(I) information about the reason for such notice;

“(II) the right to contest such notice;

“(III) contact information for the appropriate agency and instructions for initiating such contest; and

“(IV) a 24-hour toll-free telephone number to respond to inquiries related to such notice.

“(v) TRAINING MATERIALS.—The Secretary shall make available or provide to the employer, upon request, not later than 60 days prior to such employer's participation in the System, appropriate training materials to facilitate compliance with this subsection, and sections 274B(a)(7) and 274C(a).

“(F) RESPONSIBILITIES OF THE COMMISSIONER OF SOCIAL SECURITY.—The responsibilities of the Commissioner of Social Security with respect to the System are set out in section 205(c)(2) of the Social Security Act.

“(9) 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.

“(10) ADMINISTRATIVE REVIEW.—

“(A) IN GENERAL.—An individual who is terminated from employment as a result of a final nonconfirmation notice may, not later than 60 days after the date of such termination, file an appeal of such notice.

“(B) PROCEDURES.—The Secretary and Commissioner of Social Security shall develop procedures to review appeals filed under subparagraph (A) and to make final determinations on such appeals.

“(C) REVIEW FOR ERRORS.—If a final determination on an appeal filed under subparagraph (A) results in a confirmation of an individual's eligibility to work in the United States, the administrative review process shall require the Secretary to determine if the final nonconfirmation notice issued for the individual was the result of—

“(i) an error or negligence on the part of an employee or official operating or responsible for the System;

“(ii) the decision rules, processes, or procedures utilized by the System; or

“(iii) erroneous system information that was not the result of acts or omissions of the individual.

“(D) COMPENSATION FOR ERROR.—

“(i) IN GENERAL.—If the Secretary makes a determination under subparagraph (C) that the final confirmation notice issued for an individual was not caused by an act or omission of the individual, the Secretary shall take such affirmative action as the Secretary determines is appropriate, which shall include compensating the individual for reasonable costs and attorney's fees, not to exceed \$25,000, and for lost wages.

“(ii) CALCULATION OF LOST WAGES.—Lost wages shall be calculated based on the wage rate and work schedule that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the administrative review process described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

“(E) LIMITATION ON COMPENSATION.—For purposes of determining an individual's compensation for the loss of employment, such compensation shall not include any period in which the individual was ineligible for employment in the United States.

“(F) SOURCE OF FUNDS.—Compensation or reimbursement provided under this paragraph shall not be provided from funds appropriated in annual appropriations Acts to the Secretary for the Department of Homeland Security.

“(11) JUDICIAL REVIEW.—

“(A) IN GENERAL.—After the Secretary makes a final determination on an appeal filed by an individual under the administrative review process described in paragraph (10), the individual may obtain judicial review of such determination by a civil action commenced not later than 60 days after the date of such decision, or such further time as the Secretary may allow.

“(B) JURISDICTION.—A civil action for such judicial review shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has a principal place of business, or, if the plaintiff does not reside or have a principal place of business within any such judicial district, in the District Court of the United States for the District of Columbia.

“(C) ANSWER.—As part of the Secretary's answer to a complaint for such judicial review, the Secretary shall file a certified copy of the administrative record compiled during the administrative review under paragraph (10), including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming or reversing the result of that administrative review, with or without remanding the cause for a rehearing.

“(D) COMPENSATION FOR ERROR.—

“(i) IN GENERAL.—In cases in which such judicial review reverses the final determination of the Secretary made under paragraph

(10), the court shall take appropriate affirmative action, which shall include compensating the individual for reasonable costs and attorney's fees, not to exceed \$25,000, and for lost wages.

“(ii) **CALCULATION OF LOST WAGES.**—Lost wages shall be calculated based on the wage rate and work scheduled that prevailed prior to termination. The individual shall be compensated for wages lost beginning on the first scheduled work day after employment was terminated and ending 180 days after completion of the judicial review described in this paragraph or the day after the individual is reinstated or obtains employment elsewhere, whichever occurs first.

“(12) **LIMITATION ON COLLECTION AND USE OF DATA.**—

“(A) **LIMITATION ON COLLECTION OF DATA.**—

“(i) **IN GENERAL.**—The System shall collect and maintain only the minimum data necessary to facilitate the successful operation of the System, and in no case shall the data be other than—

“(I) information necessary to register employers under paragraph (5);

“(II) information necessary to initiate and respond to inquiries or contests under paragraph (8);

“(III) information necessary to establish and enforce compliance with paragraphs (5) and (8);

“(IV) information necessary to detect and prevent employment related identity fraud; and

“(V) such other information the Secretary determines is necessary, subject to a 180 day notice and comment period in the Federal Register.

“(ii) **PENALTIES.**—Any officer, employee, or contractor who willfully and knowingly collects and maintains data in the System other than data described in clause (i) shall be guilty of a misdemeanor and fined not more than \$1,000 for each violation.

“(B) **LIMITATION ON USE OF DATA.**—Whoever willfully and knowingly accesses, discloses, or uses any information obtained or maintained by the System—

“(i) for the purpose of committing identity fraud, or assisting another person in committing identity fraud, as defined in section 1028 of title 18, United States Code;

“(ii) for the purpose of unlawfully obtaining employment in the United States or unlawfully obtaining employment in the United States for any other person; or

“(iii) for any purpose other than as provided for under any provision of law; shall be guilty of a felony and upon conviction shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both.

“(C) **EXCEPTIONS.**—Nothing in subparagraph (A) or (B) may be construed to limit the collection, maintenance, or use of data by the Commissioner of Internal Revenue or the Commissioner of Social Security as provided by law.

“(13) **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 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.

“(14) **ANNUAL GAO STUDY AND REPORT.**—

“(A) **REQUIREMENT.**—The Comptroller General of the United States shall conduct an annual study of the System.

“(B) **PURPOSE.**—The study shall evaluate the accuracy, efficiency, integrity, and impact of the System.

“(C) **REPORT.**—Not later than the date that is 24 months after the date of the enactment of the Comprehensive Immigration Reform Act of 2006, and annually thereafter, the Comptroller General shall submit to Congress a report containing the findings of the study carried out under this paragraph. Each such report shall include, at a minimum, the following:

“(i) An assessment of the annual report and certification described in paragraph (8)(E)(ii).

“(ii) An assessment of System performance with respect to the rate at which individuals who are eligible for employment in the United States are correctly approved within each of the periods specified in paragraph (8), including a separate assessment of such rate for nationals and aliens.

“(iii) An assessment of the privacy and security of the System and its effects on identity fraud or the misuse of personal data.

“(iv) An assessment of the effects of the System on the employment of unauthorized aliens.

“(v) An assessment of the effects of the System, including the effects of tentative confirmations, on unfair immigration-related employment practices and employment discrimination based on national origin or citizenship status.

“(vi) An assessment of whether the Secretary and the Commissioner of Social Security have adequate resources to carry out the duties and responsibilities of this section.

“(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 such complaints that the Secretary determines are appropriate to investigate; and

“(C) for the investigation of other violations of subsection (a) that the Secretary determines is 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 regarding any employer being investigated; and

“(ii) if designated by the Secretary, 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 section.

“(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) specify the amount of fines or other penalties to be imposed;

“(iv) disclose the material facts which establish the alleged violation; and

“(v) 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) **REVIEW BY SECRETARY.**—If the Secretary determines that such fine or other penalty was incurred erroneously, or determines 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.

“(ii) **APPLICABILITY.**—This subparagraph may not apply to an employer that has or is engaged in a pattern or practice of violations of paragraph (1), (2), or (3) of subsection (a) or of any other requirements of this section.

“(C) **PENALTY CLAIM.**—After considering evidence and representations offered by the employer, 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), (2), or (3) of subsection (a) shall pay civil penalties as follows:

“(i) Pay a civil penalty of not less than \$500 and not more than \$4,000 for each unauthorized alien with respect to each such violation.

“(ii) If the employer has previously been fined 1 time during the 12-month period preceding the violation under this subparagraph, pay a civil penalty of not less than \$4,000 and not more than \$10,000 for each unauthorized alien with respect to each such violation.

“(iii) If the employer has previously been fined more than 1 time during the 24-month period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to any such provision, pay a civil penalty of not less than \$6,000 and not more than \$20,000 for each unauthorized alien with respect to each such violation.

“(B) **RECORDKEEPING OR VERIFICATION PRACTICES.**—Any employer that violates or fails to comply with the recordkeeping requirements of subsections (a), (c), and (d), shall pay a civil penalty as follows:

“(i) Pay a civil penalty of not less than \$200 and not more than \$2,000 for each such violation.

“(ii) If the employer has previously been fined 1 time during the 12-month period preceding the violation under this subparagraph, pay a civil penalty of not less than \$400 and not more than \$4,000 for each such violation.

“(iii) If the employer has previously been fined more than 1 time during the 24-month period preceding the violation under this subparagraph or has failed to comply with a previously issued and final order related to such requirements, pay a civil penalty of not less than \$600 and not more than \$6,000 for each such violation.

“(C) **OTHER PENALTIES.**—Notwithstanding subparagraphs (A) and (B), the Secretary



may impose additional penalties for violations, including violations of 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 criminal penalty described in subsection (f).

“(5) JUDICIAL REVIEW.—An employer adversely affected by a final determination may, within 45 days after the date the final determination is issued, file a petition in any appropriate district court of the United States. 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, not earlier than 46 days and not later than 180 days after the date the final determination is issued, 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.

“(7) RECOVERY OF COSTS AND ATTORNEY’S FEES.—In any appeal brought under paragraph (5) or suit brought under paragraph (6) of this section the employer shall be entitled to recover from the Secretary reasonable costs and attorney’s fees if such employer substantially prevails on the merits of the case. Such an award of attorney’s fees may not exceed \$25,000. Any such costs and attorney’s fees assessed against the Secretary shall be charged against the operating expenses of the Department for the fiscal year in which the assessment is made, and may not be reimbursed from any other source.

“(f) CRIMINAL PENALTIES AND INJUNCTIONS FOR PATTERN OR PRACTICE VIOLATIONS.—

“(1) CRIMINAL PENALTY.—An employer that engages in a pattern or practice of knowing violations of subsection (a)(1)(A) or (a)(2) shall be fined not more than \$20,000 for each unauthorized alien with respect to whom such a violation occurs, imprisoned for not more than 3 years 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 a permanent or temporary injunction, restraining order, or other order against the employer, as the Secretary deems necessary.

“(g) ADJUSTMENT FOR INFLATION.—All penalties and limitations on the recovery of costs and attorney’s fees in this section shall be increased every 4 years beginning January 2010 to reflect the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) for the 48 month period ending with September of the year preceding the year such adjustment is made. Any adjustment under this subparagraph shall be rounded to the nearest dollar.

“(h) 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).

“(i) 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 5 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 5 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 to be a repeat violator of this section or is convicted of a crime under this section, shall be debarred from the receipt of new Federal contracts, grants, or cooperative agreements for a period of 5 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 5 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 5 years, 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 alternate action under this subparagraph shall not be judicially reviewed.

“(3) SUSPENSION.—Indictments for violations of this section or adequate evidence of actions that could form the basis for debar-

ment under this subsection shall be considered a cause for suspension under the procedures and standards for suspension prescribed by the Federal Acquisition Regulation.

“(j) MISCELLANEOUS PROVISIONS.—

“(1) DOCUMENTATION.—In providing documentation or endorsement of authorization of aliens 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 (other than aliens lawfully admitted for permanent residence).

“(2) PREEMPTION.—The provisions of this section preempt any State or local law 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.

“(k) 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).

“(l) DEFINITIONS.—In this section:

“(1) EMPLOYER.—The term ‘employer’ means any person or entity, including any entity of the Government of the United States, hiring, recruiting, or referring an individual for employment in the United States.

“(2) SECRETARY.—Except as otherwise provided, the term ‘Secretary’ means the Secretary of Homeland Security.

“(3) UNAUTHORIZED ALIEN.—The term ‘unauthorized alien’ means, with respect to the employment of an alien at a particular time, that the alien is not at that time either—

“(A) an alien lawfully admitted for permanent residence; or

“(B) authorized to be so employed by this Act or by the Secretary.”

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS.—

(A) REPEAL OF BASIC PILOT.—Sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1324a note) are repealed.

(B) REPEAL OF REPORTING REQUIREMENTS.—

(i) REPORT ON EARNINGS OF ALIENS NOT AUTHORIZED TO WORK.—Subsection (c) of section 290 (8 U.S.C. 1360) is repealed.

(ii) REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS.—Subsection (b) of section 414 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1360 note) is 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 sections 401, 402, 403, 404, and 405 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104-208; 8 U.S.C. 1324a note) in the Electronic Employment Verification System established pursuant to such subsection (d).

(c) TECHNICAL AMENDMENTS.—

(1) DEFINITION OF UNAUTHORIZED ALIEN.—Sections 218(i)(1) (8 U.S.C. 1188(i)(1)), 245(c)(8) (8 U.S.C. 1255(c)(8)), 274(a)(3)(B)(i) (8 U.S.C. 1324(a)(3)(B)(i)), and 274B(a)(1) (8 U.S.C. 1324b(a)(1)) are amended by striking “274A(h)(3)” and inserting “274A”.

(2) DOCUMENT REQUIREMENTS.—Section 274B (8 U.S.C. 1324b) is amended—

(A) in subsections (a)(6) and (g)(2)(B), by striking “274A(b)” and inserting “274A(d)”; and

(B) in subsection (g)(2)(B)(ii), by striking “274A(b)(5)” and inserting “274A(d)”.

(d) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended by adding at the end the following new subparagraphs:

“(I)(i) The Commissioner of Social Security shall, subject to the provisions of section 301(f)(2) of the Comprehensive Immigration Reform Act of 2006, establish a reliable, secure method to provide through the Electronic Employment Verification System established pursuant to subsection (d) of section 274A of the Immigration and Nationality Act (referred to in this subparagraph as the ‘System’), within the time periods required by paragraph (8) of such subsection—

“(I) a determination of whether the name, date of birth, and social security account number of an individual provided in an inquiry made to the System by an employer is consistent with such information maintained by the Commissioner in order to confirm the validity of the information provided;

“(II) determination of the citizenship status associated with such name and social security account number, according to the records maintained by the Commissioner;

“(III) a determination of whether the name and number belongs to an individual who is deceased, according to the records maintained by the Commissioner;

“(IV) a determination of whether the name and number is blocked in accordance with clause (ii); and

“(V) a confirmation notice or a nonconfirmation notice described in such paragraph (8), in a manner that ensures that other information maintained by the Commissioner is not disclosed or released to employers through the System.

“(ii) The Commissioner of Social Security shall prevent the fraudulent or other misuse of a social security account number by establishing procedures under which an individual who has been assigned a social security account number may block the use of such number under the System and remove such block.

“(J) In assigning social security account numbers to aliens who are authorized to work in the United States under section 218A of the Immigration and Nationality Act, the Commissioner of Social Security shall, to the maximum extent practicable, assign such numbers by employing the enumeration procedure administered jointly by the Commissioner, the Secretary of State, and the Secretary.”

(e) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(21) DISCLOSURE OF CERTAIN TAXPAYER IDENTITY INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HOMELAND SECURITY.—

“(A) IN GENERAL.—From taxpayer identity information which has been disclosed to the Social Security Administration and upon written request by the Secretary of Homeland Security, the Commissioner of Social Security shall disclose directly to officers, employees, and contractors of the Department of Homeland Security the following information:

“(i) DISCLOSURE OF EMPLOYER NO-MATCH NOTICES.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 during calendar year 2006, 2007, or 2008 which contains—

“(I) more than 100 names and taxpayer identifying numbers of employees (within the meaning of such section) that did not match the records maintained by the Commissioner of Social Security, or

“(II) more than 10 names of employees (within the meaning of such section) with the same taxpayer identifying number.

“(ii) DISCLOSURE OF INFORMATION REGARDING USE OF DUPLICATE EMPLOYEE TAXPAYER IDENTIFYING INFORMATION.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of identity fraud due to the multiple use of the same taxpayer identifying number (assigned under section 6109) of an employee (within the meaning of section 6051).

“(iii) DISCLOSURE OF INFORMATION REGARDING NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of each person who has filed an information return required by reason of section 6051 which the Commissioner of Social Security has reason to believe, based on a comparison with information submitted by the Secretary of Homeland Security, contains evidence of such person's failure to register and participate in the Electronic Employment Verification System authorized under section 274A(d) of the Immigration and Nationality Act (hereafter in this paragraph referred to as the ‘System’).

“(iv) DISCLOSURE OF INFORMATION REGARDING NEW EMPLOYEES OF NONPARTICIPATING EMPLOYERS.—Taxpayer identity information of all employees (within the meaning of section 6051) hired after the date a person identified in clause (iii) is required to participate in the System under section 274A(d)(2) or section 274A(d)(3)(B) of the Immigration and Nationality Act.

“(v) DISCLOSURE OF INFORMATION REGARDING EMPLOYEES OF CERTAIN DESIGNATED EMPLOYERS.—Taxpayer identity information of all employees (within the meaning of section 6051) of each person who is required to participate in the System under section 274A(d)(3)(B) of the Immigration and Nationality Act.

“(vi) DISCLOSURE OF NEW HIRE TAXPAYER IDENTITY INFORMATION.—Taxpayer identity information of each person participating in the System and taxpayer identity information of all employees (within the meaning of section 6051) of such person hired during the period beginning with the later of—

“(I) the date such person begins to participate in the System, or

“(II) the date of the request immediately preceding the most recent request under this clause, ending with the date of the most recent request under this clause.

“(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose taxpayer identity information under subparagraph (A) only for purposes of, and to the extent necessary in—

“(i) establishing and enforcing employer participation in the System,

“(ii) carrying out, including through civil administrative and civil judicial proceedings, of sections 212, 217, 235, 237, 238, 274A, 274B, and 274C of the Immigration and Nationality Act, and

“(iii) the civil operation of the Alien Terrorist Removal Court.

“(C) REIMBURSEMENT.—The Commissioner of Social Security shall prescribe a reasonable fee schedule for furnishing taxpayer identity information under this paragraph and collect such fees in advance from the Secretary of Homeland Security.

“(D) TERMINATION.—This paragraph shall not apply to any request made after the date which is 3 years after the date of the enactment of this paragraph.”

(2) COMPLIANCE BY DHS CONTRACTORS WITH CONFIDENTIALITY SAFEGUARDS.—

(A) IN GENERAL.—Section 6103(p) of such Code is amended by adding at the end the following new paragraph:

“(9) DISCLOSURE TO DHS CONTRACTORS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor of the Department of Homeland Security unless such Department, to the satisfaction of the Secretary—

“(A) has requirements in effect which require each such contractor which would have access to returns or return information to provide safeguards (within the meaning of paragraph (4)) to protect the confidentiality of such returns or return information,

“(B) agrees to conduct an on-site review every 3 years (mid-point review in the case of contracts or agreements of less than 1 year in duration) of each contractor to determine compliance with such requirements,

“(C) submits the findings of the most recent review conducted under subparagraph (B) to the Secretary as part of the report required by paragraph (4)(E), and

“(D) certifies to the Secretary for the most recent annual period that such contractor is in compliance with all such requirements.

The certification required by subparagraph (D) shall include the name and address of each contractor, a description of the contract or agreement with such contractor, and the duration of such contract or agreement.”

(3) CONFORMING AMENDMENTS.—

(A) Section 6103(a)(3) of such Code is amended by striking “or (20)” and inserting “(20), or (21)”.

(B) Section 6103(p)(3)(A) of such Code is amended by adding at the end the following new sentence: “The Commissioner of Social Security shall provide to the Secretary such information as the Secretary may require in carrying out this paragraph with respect to return information inspected or disclosed under the authority of subsection (l)(21).”

(C) Section 6103(p)(4) of such Code is amended—

(i) by striking “or (17)” both places it appears and inserting “(17), or (21)”, and

(ii) by striking “or (20)” each place it appears and inserting “(20), or (21)”.

(D) Section 6103(p)(8)(B) of such Code is amended by inserting “or paragraph (9)” after “subparagraph (A)”.

(E) Section 7213(a)(2) of such Code is amended by striking “or (20)” and inserting “(20), or (21)”.

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out the amendments made by this section.

(2) LIMITATION ON VERIFICATION RESPONSIBILITIES OF COMMISSIONER OF SOCIAL SECURITY.—The Commissioner of Social Security is authorized to perform activities with respect to carrying out the Commissioner's responsibilities in this title or the amendments made by this title, but only to the extent the Secretary has provided, in advance, funds to cover the Commissioner's full costs in carrying out such responsibilities. In no case shall funds from the Federal Old-Age and Survivors Insurance Trust Fund or the Federal Disability Insurance Trust Fund be used to carry out such responsibilities.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall take effect on the date that is 180 days after the date of the enactment of this Act.

(2) SUBSECTION (e).—

(A) IN GENERAL.—The amendments made by subsection (e) shall apply to disclosures made after the date of the enactment of this Act.

(B) CERTIFICATIONS.—The first certification under section 6103(p)(9)(D) of the Internal Revenue Code of 1986, as added by subsection (e)(2), shall be made with respect to calendar year 2007.

#### 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) INCREASE IN NUMBER OF PERSONNEL.—The Secretary shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,200, the number of personnel of the Bureau of Immigration and Customs Enforcement during the 5-year period beginning on the date of the enactment of this Act.

(b) USE OF PERSONNEL.—The Secretary shall ensure that not less than 25 percent of all the hours expended by personnel of the Bureau of Immigration and Customs Enforcement shall be used to enforce compliance with sections 274A and 274C of the Immigration and Nationality Act (8 U.S.C. 1324a and 1324c).

(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”.

#### SEC. 305. ANTIDISCRIMINATION PROTECTIONS.

(a) APPLICATION OF PROHIBITION OF DISCRIMINATION TO VERIFICATION SYSTEM.—Section 274B(a)(1) (8 U.S.C. 1324b(a)(1)) is amended by inserting “, the verification of the individual’s work authorization through the Electronic Employment Verification System described in section 274A(d),” after “the individual for employment”.

(b) CLASSES OF ALIENS AS PROTECTED INDIVIDUALS.—Section 274B(a)(3)(B) (8 U.S.C. 1324b(a)(3)(B)) is amended to read as follows:

“(B) is an alien who is—

“(i) lawfully admitted for permanent residence;

“(ii) granted the status of an alien lawfully admitted for temporary residence under section 210(a) or 245(a)(1);

“(iii) admitted as a refugee under section 207;

“(iv) granted asylum under section 208;

“(v) granted the status of a nonimmigrant under section 101(a)(15)(H)(ii)(c);

“(vi) granted temporary protected status under section 244; or

“(vii) granted parole under section 212(d)(5).”.

(c) REQUIREMENTS FOR ELECTRONIC EMPLOYMENT VERIFICATION.—Section 274B(a) (8

U.S.C. 1324b(a)) is amended by adding at the end the following:

“(7) ANTIDISCRIMINATION REQUIREMENTS OF THE ELECTRONIC EMPLOYMENT VERIFICATION SYSTEM.—It is an unfair immigration-related employment practice for a person or other entity, in the course of the electronic verification process described in section 274A(d)—

“(A) to terminate or undertake any adverse employment action due to a tentative nonconfirmation;

“(B) to use the verification system for screening of an applicant prior to an offer of employment;

“(C) except as described in section 274A(d)(3)(B), to use the verification system for a current employee after the first 3 days of employment, or for the reverification of an employee after the employee has satisfied the process described in section 274A(d); or

“(D) to require an individual to make an inquiry under the self-verification procedures established in section 274A(d)(8)(E)(iii).”.

(d) INCREASE IN CIVIL MONEY PENALTIES.—Section 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

(1) in subparagraph (B)(iv)—

(A) in subclause (I), by striking “\$250 and not more than \$2,000” and inserting “\$1,000 and not more than \$4,000”;

(B) in subclause (II), by striking “\$2,000 and not more than \$5,000” and inserting “\$4,000 and not more than \$10,000”;

(C) in subclause (III), by striking “\$3,000 and not more than \$10,000” and inserting “\$6,000 and not more than \$20,000”; and

(D) in subclause (IV), by striking “\$100 and not more than \$1,000” and inserting “\$500 and not more than \$5,000”.

(e) INCREASED FUNDING OF INFORMATION CAMPAIGN.—Section 274B(1)(3) (8 U.S.C. 1324b(1)(3)) is amended by inserting “and an additional \$40,000,000 for each of fiscal years 2007 through 2009” before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to violations occurring on or after such date.

**SA 4100.** Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 540, strike line 11 and all that follows through page 549, line 25.

**SA 4101.** Mrs. HUTCHISON (for herself and Mr. BOND) submitted an amendment intended to be proposed by her to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 313, after line 22, add the following:

#### Subtitle C—Secure Authorized Foreign Employee Visa Program

#### SEC. 441. ADMISSION OF TEMPORARY GUEST WORKERS.

(a) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.), as amended by this title and title VI, is further amended by inserting after section 218 the following:

#### “SEC. 218I. SECURE AUTHORIZED FOREIGN EMPLOYEE (SAFE) VISA PROGRAM.

“(a) AUTHORIZATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary of State shall, subject to the numeric limits under subsection (i), award a

SAFE visa to each alien who is a national of a NAFTA or CAFTA-DR country and who meets the requirements under subsection (b), to perform services in the United States in accordance with this section.

“(b) REQUIREMENTS FOR ADMISSION.—An alien is eligible for a SAFE visa if the alien—

“(1) has a residence in a NAFTA or CAFTA-DR country, which the alien has no intention of abandoning;

“(2) applies for an initial SAFE visa while in the alien’s country of nationality;

“(3) establishes that the alien has received a job offer from an employer who has complied with the requirements under subsection (c);

“(4) undergoes a medical examination (including a determination of immunization status), at the alien’s expense, that conforms to generally accepted standards of medical practice;

“(5) passes all appropriate background checks, as determined by the Secretary of Homeland Security;

“(6) submits a completed application, on a form designed by the Secretary of Homeland Security; and

“(7) pays a visa issuance fee, in an amount determined by the Secretary of State to be equal to not less than the cost of processing and adjudicating such application.

“(c) EMPLOYER RESPONSIBILITIES.—An employer seeking to hire a national of a NAFTA or CAFTA-DR country under this section shall—

“(1) submit a request to the Secretary of Labor for a certification under subsection (d) that there is a shortage of workers in the occupational classification and geographic area for which the foreign worker is sought;

“(2) submit to each foreign worker a written employment offer that sets forth the rate of pay at a rate that is not less than the greater of—

“(A) the prevailing wage for such occupational classification in such geographic area; or

“(B) the applicable minimum wage in the State in which the worker will be employed;

“(3) provide the foreign worker one-time transportation from the country of origin to the place of employment and from the place of employment to the country of origin, the cost of which may be deducted from the worker’s pay under an employment agreement; and

“(4) withhold and remit appropriate payroll deductions to the Internal Revenue Service.

“(d) LABOR CERTIFICATION.—Upon receiving a request from an employer under subsection (c)(1), the Secretary of Labor shall—

“(1) determine if there are sufficient United States workers who are able, willing, qualified, and available to fill the position in which the alien is, or will be employed, based on the national unemployment rate and the number of workers needed in the occupational classification and geographic area for which the foreign worker is sought; and

“(2) if the Secretary determines under paragraph (1) that there are insufficient United States workers, provide the employer with labor shortage certification for the occupational classification for which the worker is sought.

“(e) PERIOD OF AUTHORIZED ADMISSION.—

“(1) DURATION.—A SAFE visa worker may remain in the United States for not longer than 10 months during the 12-month period for which the visa is issued.

“(2) RENEWAL.—A SAFE visa may be renewed for additional 10-month work periods under the requirements described in this section.

“(3) VISITS OUTSIDE UNITED STATES.—Under regulations established by the Secretary of Homeland Security, a SAFE visa worker—

“(A) may travel outside of the United States; and

“(B) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

“(4) LOSS OF EMPLOYMENT.—The period of authorized admission under this section shall terminate if the SAFE visa worker is unemployed for 60 or more consecutive days. Any SAFE visa worker whose period of authorized admission terminates under this paragraph shall be required to leave the United States.

“(5) RETURN TO COUNTRY OF ORIGIN.—A SAFE visa worker may not apply for lawful permanent residence or any other visa category until the worker has relinquished the SAFE visa and returned to the worker's country of origin.

“(6) FAILURE TO COMPLY.—If a SAFE visa worker fails to comply with the terms of the SAFE visa, the worker will be permanently ineligible for the SAFE visa program.

“(f) EVIDENCE OF NONIMMIGRANT STATUS.—Each SAFE visa worker shall be issued a SAFE visa card, 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; and

“(3) shall, during the alien's authorized period of admission under subsection (e), serve as a valid entry document for the purpose of entering the United States.

“(g) SOCIAL SERVICES.—

“(1) IN GENERAL.—SAFE visa workers are not eligible for Federal, State, or local government-sponsored social services.

“(2) SOCIAL SECURITY.—Upon request, a SAFE visa worker shall receive the total employee portion of the Social Security contributions withheld from the worker's pay. Any worker who receives such contributions shall be permanently ineligible to renew a SAFE visa under subsection (e)(2).

“(3) MEDICARE.—Amounts withheld from the SAFE visa workers' pay for Medicare contributions shall be used to pay for uncompensated emergency health care provided to noncitizens.

“(h) PERMANENT RESIDENCE; CITIZENSHIP.—Nothing in this section shall be construed to provide a SAFE visa worker with eligibility to apply for legal permanent residence or a path towards United States citizenship.

“(i) NUMERICAL LIMITS.—

“(1) ANNUAL LIMITS.—Except as provided under paragraphs (2) and (3), the number of SAFE visas authorized under this section shall not exceed 200,000 per fiscal year.

“(2) WAIVER.—The President may waive the limit under paragraph (1) for a specific fiscal year by certifying that additional foreign workers are needed in that fiscal year.

“(3) INCREMENTAL ADJUSTMENTS.—If the President certifies that additional foreign workers are needed in a specific year, the Secretary of State may increase the number of SAFE visas available in that fiscal year by the number of additional workers certified under paragraph (2).

“(4) CONGRESSIONAL OVERSIGHT.—The President shall transmit to Congress all certifications authorized in this section.

“(5) ALLOCATION OF SAFE VISAS DURING A FISCAL YEAR.—Not more than 50 percent of the total number of SAFE visas available in each fiscal year may be allocated to aliens who will enter the United States pursuant to such visa during the first 6 months of such fiscal year.

“(j) SAVINGS PROVISION.—Nothing in this section shall be construed to affect any other visa program authorized by Federal law.

“(k) REPORTING REQUIREMENT.—Not later than 3 years after the implementation of the SAFE visa program, the President shall submit a detailed report to Congress on the status of the program, including the number of visas issued and the feasibility of expanding the program.

“(1) DEFINITIONS.—In this section:

“(1) NAFTA OR CAFTA-DR COUNTRY.—The term ‘NAFTA or CAFTA-DR country’ means any country (except for the United States) that has signed the North American Free Trade Agreement or the Central America-Dominican Republic-United States Free Trade Agreement.

“(2) SAFE VISA.—The term ‘SAFE visa’ means a visa authorized under this section.”.

(b) CLERICAL AMENDMENT.—The table of contents (8 U.S.C. 1101) is amended by inserting after the item relating to section 218H, as added by section 615, the following:

“Sec. 218I. Secure Authorized Foreign Employee Visa Program.”.

**SA 4102.** Mr. SCHUMER (for himself and Mr. MENENDEZ) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_ PUBLIC ACCESS TO THE STATUE OF LIBERTY.**

Not later than 60 days after the date of the enactment of this Act, the Secretary of the Interior shall ensure that all persons who satisfy reasonable and appropriate security measures shall have full access to the public areas of the Statue of Liberty, including the crown and the stairs leading thereto.

**SA 4103.** Mr. LEAHY (for himself, Mr. COLEMAN, Mr. LIEBERMAN, Mr. KENNEDY, Mr. CHAFEE, Mr. HARKIN, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

On page 65, line 24, strike “F” and insert the following:

(f) TERRORIST ORGANIZATIONS.—

(1) DEFINITIONS.—Section 212(a)(3)(B)(vi) (8 U.S.C. 1182(a)(3)(B)(vi)) is amended by striking subclause (III) and inserting the following:

“(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv), and that these activities threaten the security of United States nationals or the national security of the United States.

“(vii) APPLICABILITY.—Clause (iv)(VI) shall not apply to—

“(I) any active or former member of the Armed Forces of the United States with regard to activities undertaken in the course of official military duties; or

“(II) any alien determined not to be a threat to the security of United States nationals or the national security of the United States and who is not otherwise inadmissible on security related grounds under this subparagraph.”.

(2) TEMPORARY ADMISSION OF NON-IMMIGRANTS.—Section 212(d)(3)(B)(i) (8 U.S.C. 1182(d)(3)(B)(i)) is amended to read as follows:

“(i) The Secretary of State, after consultation with the Attorney General and the Secretary of Homeland Security, or the Sec-

retary of Homeland Security, after consultation with the Secretary of State and the Attorney General, may conclude in such Secretary's sole unreviewable discretion that subclause (IV)(bb), (VI), or (VII) of subsection (a)(3)(B)(i) shall not apply to an alien, that subsection (a)(3)(B)(iv)(VI) shall not apply with respect to any material support an alien afforded to an organization (or its members) or individual that has engaged in a terrorist activity, or that subsection (a)(3)(B)(vi)(III) shall not apply to a group, or to a subgroup of such group, within the scope of that subsection. The Secretary of State may not, however, exercise discretion under this clause with respect to an alien once removal proceedings against the alien are instituted under section 240.”.

(g)

**SA 4104.** Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, of subtitle A of title I, insert the following:

**SEC. \_\_\_\_ NATIONAL SECURITY DETERMINATION FOR CONSTRUCTION OF ADDITIONAL FENCING.**

Notwithstanding section 106 or any other provision of law, after the date of the enactment of this Act the President may not permit the construction of any additional fencing along the international border between the United States and Mexico until after the date that President makes a determination that the construction of such additional fencing will strengthen the national security of the United States.

**SA 4105.** Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. \_\_\_\_ FAIRNESS IN THE STUDENT AND EXCHANGE VISITOR INFORMATION SYSTEM.**

(a) REDUCED FEE FOR SHORT-TERM STUDY.—

(1) IN GENERAL.—Section 641(e)(4)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(e)(4)(A)) is amended by striking the second sentence and inserting “Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed \$100, except that in the case of an alien admitted under subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed \$35 and that in the case of an alien admitted under subparagraph (F) of such section 101(a)(15) for a program that will not exceed 90 days, the fee shall not exceed \$35.”.

(2) TECHNICAL AMENDMENTS.—Such section 641(e)(4)(A) is further amended—

(A) in the first sentence, by striking “Attorney General” and inserting “Secretary of Homeland Security”; and

(B) in the third sentence, by striking “Attorney General's” and inserting “Secretary's”.

(b) RECREATIONAL COURSES.—Notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, the Secretary of State shall issue appropriate guidance to consular officers to in order to give appropriate discretion, according to criteria developed at each post and approved by the Secretary of

State, so that a course of a duration no more than 1 semester (or its equivalent), and not awarding certification, license or degree, is considered recreational in nature for purposes of determining appropriateness for visitor status.

**SA 4106.** Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

#### **TITLE VIII—LABOR PROTECTIONS**

##### **SEC. 801. SHORT TITLE.**

This title may be cited as the "Enhanced Enforcement of Labor Protections for United States Workers and Guest Workers Act".

##### **SEC. 802. VIOLATIONS OF THE FAIR LABOR STANDARDS ACT OF 1938.**

Section 16 of the Fair Labor Standards Act of 1938 (29 U.S.C. 216) is amended—

(1) in subsection (b), by striking "equal amount as liquidated damages" the first place it appears and inserting "amount equal to twice the amount of such unpaid minimum wages or unpaid overtime compensation, as the case may be, as liquidated damages"; and

(2) in subsection (e)—

(A) by striking "\$10,000" and inserting "\$50,000"; and

(B) by striking "\$1,000" and inserting "\$10,000".

##### **SEC. 803. VIOLATIONS OF THE OCCUPATIONAL SAFETY AND HEALTH ACT.**

(a) **CIVIL PENALTIES.**—Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) is amended—

(1) in subsection (a)—

(A) by striking "\$70,000" and inserting "\$100,000";

(B) by striking "\$5,000" and inserting "\$7,000"; and

(C) by adding at the end the following: "If such a violation causes the death of an employee, such civil penalty amounts shall be increased to not more than \$250,000 for such violation, but not less than \$50,000 for such violation.";

(2) in subsection (b)—

(A) by striking "\$7,000" and inserting "\$10,000"; and

(B) by adding at the end the following: "If such a violation causes the death of an employee, such civil penalty amount shall be increased to not more than \$50,000 for such violation, but not less than \$20,000 for such violation.";

(3) in subsection (c)—

(A) by striking "\$7,000" and inserting "\$10,000"; and

(B) by adding at the end the following: "If such a violation causes the death of an employee, such civil penalty amount shall be increased to not more than \$50,000 for such violation, but not less than \$20,000 for such violation.";

(4) in subsection (d)—

(A) by striking "\$7,000" and inserting "\$10,000"; and

(B) by adding at the end the following: "If such a violation causes the death of an employee, such civil penalty amount shall be increased to not more than \$50,000 for such violation, but not less than \$20,000 for such violation.";

(5) in subsection (i), by striking "\$7,000" and inserting "\$10,000".

(b) **CRIMINAL PENALTIES.**—

(1) **IN GENERAL.**—Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) (as amended by subsection (a)) is further amended—

(A) in subsection (e)—

(i) by striking "fine of not more than \$10,000" and inserting "fine in accordance with section 3571 of title 18, United States Code,";

(ii) by striking "six months" and inserting "10 years";

(iii) by inserting "under this subsection or subsection (i)" after "first conviction of such person";

(iv) by striking "fine of not more than \$20,000" and inserting "fine in accordance with section 3571 of title 18, United States Code,"; and

(v) by striking "one year" and inserting "20 years";

(B) in subsection (f), by striking "fine of not more than \$1,000 or by imprisonment for not more than six months," and inserting "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 2 years,";

(C) in subsection (g), by striking "fine of not more than \$10,000, or by imprisonment for not more than six months," and inserting "fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 1 year,";

(D) by redesignating subsections (i) through (l) as subsections (j) through (m), respectively; and

(E) by inserting after subsection (h) the following:

"(i) Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6, or any regulation prescribed pursuant to this Act, and that violation causes serious bodily injury to any employee but does not cause death to any employee, shall, upon conviction, be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or by both, except that if the conviction is for a violation committed after a first conviction of such person under this subsection or subsection (e), punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or by both."

(2) **JURISDICTION FOR PROSECUTION UNDER STATE AND LOCAL CRIMINAL LAWS.**—Section 17 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 666) (as amended by this section) is further amended by adding at the end the following:

"(n) Nothing in this Act shall preclude a State or local law enforcement agency from conducting criminal prosecutions in accordance with the laws of such State or locality."

(3) **DEFINITION.**—Section 3 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652) is amended by adding at the end the following:

"(15) The term 'serious bodily injury' means bodily injury that involves—

"(A) a substantial risk of death;

"(B) protracted unconsciousness;

"(C) protracted and obvious physical disfigurement; or

"(D) protracted loss or protracted impairment, of the function of a bodily member, organ, or mental faculty."

##### **SEC. 804. STRENGTHENING ENFORCEMENT.**

(a) **INJUNCTIONS AGAINST UNFAIR LABOR PRACTICES DURING ORGANIZING DRIVES.**—

(1) **IN GENERAL.**—Section 10(l) of the National Labor Relations Act (29 U.S.C. 160(l)) is amended—

(A) in the second sentence, by striking "If, after such" and inserting the following:

"(2) If, after such"; and

(B) by striking the first sentence and inserting the following: "(1) Whenever it is charged that—

"(A)(i) any employer—

"(I) discharged or otherwise discriminated against an employee in violation of subsection (a)(3) of section 8;

"(II) threatened to discharge or to otherwise discriminate against an employee in violation of subsection (a)(1) of section 8; or

"(III) engaged in any other unfair labor practice within the meaning of subsection (a)(1) of section 8 that significantly interferes with, restrains, or coerces employees in the exercise of the rights guaranteed in section 7; and

"(ii) the discharge, discrimination, threat, or practice described in clause (i) occurred—

"(I) while employees of that employer were seeking representation by a labor organization; or

"(II) during the period after a labor organization was recognized as a representative as described in section 9(a) and before the first collective bargaining agreement was entered into between the employer and the representative; or

"(B) that any person has engaged in an unfair labor practice within the meaning of subparagraph (A), (B) or (C) of section 8(b)(4), section 8(b)(7), or section 8(e);

the preliminary investigation of such charge shall be made forthwith and given priority over all other cases except cases of like character in the office where it is filed or to which it is referred."

(2) **CONFORMING AMENDMENT.**—Section 10(m) of the National Labor Relations Act (29 U.S.C. 160(m)) is amended by inserting "under circumstances not described in section 10(l)(1)" after "section 8".

(b) **REMEDIES FOR VIOLATIONS.**—

(1) **BACKPAY.**—Section 10(c) of the National Labor Relations Act (29 U.S.C. 160(c)) is amended by striking "And provided further," and inserting "Provided further, That if the Board finds that an employer has discriminated against an employee in violation of section 8(a)(3) while employees of the employer were seeking representation by a labor organization, or during the period after a labor organization was recognized as a representative as described in section 9(a) and before the first collective bargaining agreement was entered into between the employer and the representative, the Board in such order shall award the employee an amount of backpay and, in addition, 2 times that amount as liquidated damages: *Provided further,*."

(2) **CIVIL PENALTIES.**—Section 12 of the National Labor Relations Act (29 U.S.C. 162) is amended—

(A) by striking "Any" and inserting "(a) Any"; and

(B) by adding at the end the following:

"(b) Any employer who willfully or repeatedly commits any unfair labor practice within the meaning of subsection (a)(1) or (a)(3) of section 8 while employees of the employer were seeking representation by a labor organization, or during the period after a labor organization was recognized as a representative as described in section 9(a) and before the first collective bargaining contract was entered into between the employer and the representative shall be subject to, in addition to any make-whole remedy ordered, a civil penalty of not more than \$20,000 for each violation. In determining the amount of any penalty under this subsection, the Board shall consider the gravity of the unfair labor practice and the impact of the unfair labor practice on the charging party, on other persons seeking to exercise rights guaranteed by this Act, or on the public interest."

##### **SEC. 805. USE OF FEES.**

(a) **FEES PAID BY H-2C NONIMMIGRANTS.**—Section 218A, as added by section 403(a)(1) of this Act, is amended by striking subsection (1) and inserting the following:

“(1) COLLECTION OF FEES.—Fees collected under this section shall be allocated as follows:

“(1) 75 percent of such fees shall be deposited in the Treasury in accordance with section 286(c).

“(2) 25 percent of such fees shall be deposited in the Labor Law Enforcement Fund established in section 286(y).”

(b) FEES PAID BY EMPLOYERS.—Section 218B, as added by section 404(a) of this Act, is amended by striking subsection (a) and inserting the following:

“(a) GENERAL REQUIREMENTS.—

“(1) EMPLOYER REQUIREMENTS.—Each employer who employs an H-2C nonimmigrant shall—

“(A) file a petition in accordance with subsection (b); and

“(B) pay the appropriate fee, as determined by the Secretary of Labor.

“(2) USE OF FEES.—The fees collected under paragraph (1)(B) shall be allocated as follows:

“(A) 75 percent of such fees shall be deposited in the Treasury in accordance with section 286(c).

“(B) 25 percent of such fees shall be deposited in the Labor Law Enforcement Fund established in section 286(y).”

(c) LABOR LAW ENFORCEMENT FUND.—Section 286 (8 U.S.C. 1356), as amended by sections 302 and 403(b), is further amended by adding at the end the following new subsection:

“(y) LABOR LAW ENFORCEMENT FUND.—

“(1) IN GENERAL.—There is established in the general fund of the Treasury, a separate account, which shall be known as the ‘Labor Law Enforcement Fund’ (referred to in this subsection as the ‘Fund’).

“(2) DEPOSITS.—There shall be deposited as offsetting receipts into the Fund the fees described in section 218A(1)(2) or 218B(a)(2).

“(3) PURPOSE.—Amounts deposited in the Fund shall be made available to the Secretary of Labor to ensure that employers in industries in the United States that employ a high percentage of workers who are granted nonimmigrant status under section 101(a)(15)(H)(ii)(c) comply with the provisions of the Fair Labor Standards Act of 1938, the Occupational Safety and Health Act of 1970, and section 218B(b)(2), including ensuring such compliance by random audits of such employers.

“(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 Labor.”

#### SEC. 806. PROTECTION FOR WHISTLEBLOWERS.

Section 218A, as added by section 403(a)(1) of this Act, is amended by striking subparagraph (A) of subsection (f)(3) and inserting the following:

“(A) IN GENERAL.—

“(i) PERIOD OF UNEMPLOYMENT.—Except as provided in clause (ii) and in subsection (c), the period of authorized admission of an H-2C nonimmigrant shall terminate if the alien is unemployed for a period of 60 or more consecutive days.

“(ii) EXTENSION OF PERIOD.—

“(I) AUTHORITY.—The Secretary of Labor may extend the 60-day period referred to in clause (i), if the alien has filed a complaint with the Secretary of Labor that alleges that a violation of a Federal labor law by the alien's employer caused the alien's unemployment.

“(II) DETERMINATION.—Not later than 45 days after a complaint referred to in subsection (I) is filed, the Secretary of Labor shall make a determination whether an extension under subsection (I) is warranted to resolve the complaint.”

#### SEC. 807. LIABILITY IN CERTAIN CASES BASED ON IMMIGRATION STATUS.

Notwithstanding any other provision of law, an alien who is subject to an unlawful employment practice by an employer may not be denied backpay or other monetary relief for such unlawful employment practice on the basis of the alien's immigration status.

#### SEC. 808. DEPARTMENT OF LABOR BILINGUAL STAFF REQUIREMENT.

(a) REQUIREMENT FOR BILINGUAL STAFF.—The Secretary of Labor shall make every effort to ensure that, not later than 5 years after the date of enactment of this Act, not less than 25 percent of the investigative staff of the Department of Labor shall be fluent in a language in addition to English. The requirement of this section shall not be grounds for the termination of any employee employed by the Department of Labor on the date of enactment of this Act, nor for the reduction of any staff levels in the Department of Labor as of such date.

(b) ANNUAL REPORT.—The Secretary of Labor shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives an annual report on the progress made to carry out subsection (a).

**SA 4107.** Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill S. 2611, to provide for comprehensive immigration reform and for other purposes; as follows:

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . PROTECTION OF THE INTEGRITY OF THE SOCIAL SECURITY SYSTEM.

(a) TRANSMITTAL AND APPROVAL OF TOTALIZATION AGREEMENTS.—Section 233(e) of the Social Security Act (42 U.S.C. 433(e)) is amended to read as follows:

“(e)(1) Any agreement to establish a totalization arrangement which is entered into with another country under this section shall enter into force with respect to the United States if (and only if)—

“(A) the President, at least 90 calendar days before the date on which the President enters into the agreement, notifies each House of the Congress of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register,

“(B) the President transmits the text of such agreement to each House of the Congress as provided in paragraph (2), and

“(C) an approval resolution regarding such agreement has passed both Houses of the Congress and has been enacted into law.

“(2)(A) Whenever an agreement referred to in paragraph (1) is entered into, the President shall transmit to each House of the Congress a document setting forth the final legal text of such agreement and including a report by the President in support of such agreement. The President's report shall include the following:

“(i) an estimate by the Chief Actuary of the Social Security Administration of the effect of the agreement, in the short term and in the long term, on the receipts and disbursements under the social security system established by this title;

“(ii) a statement of any administrative action proposed to implement the agreement and how such action will change or affect existing law,

“(iii) a statement describing whether and how the agreement changes provisions of an agreement previously negotiated,

“(iv) a statement describing how and to what extent the agreement makes progress in achieving the purposes, policies, and objectives of this title,

“(v) an estimate of the number of individuals who will be affected by the agreement,

“(vi) an assessment of the integrity of the retirement data and records (including birth, death, and marriage records) of the other country that is the subject of the agreement, and

“(vii) an assessment of ability of such country to track and monitor recipients of benefits under such agreement.

“(B) If any separate agreement or other understanding with another country (whether oral or in writing) relating to an agreement to establish a totalization arrangement under this section is not disclosed to the Congress in the transmittal to the Congress under this paragraph of the agreement to establish a totalization arrangement, then such separate agreement or understanding shall not be considered to be part of the agreement approved by the Congress under this section and shall have no force and effect under United States law.

“(3) For purposes of this subsection, the term ‘approval resolution’ means a joint resolution, the matter after the resolving clause of which is as follows: ‘That the proposed agreement entered into pursuant to section 233 of the Social Security Act between the United States and \_\_\_\_\_ establishing totalization arrangements between the social security system established by title II of such Act and the social security system of \_\_\_\_\_, transmitted to the Congress by the President on \_\_\_\_\_, is hereby approved.’, the first two blanks therein being filled with the name of the country with which the United States entered into the agreement, and the third blank therein being filled with the date of the transmittal of the agreement to the Congress.

“(4) Whenever a document setting forth an agreement entered into under this section and the President's report in support of the agreement is transmitted to the Congress pursuant to paragraph (2), copies of such document shall be delivered to both Houses of Congress on the same day and shall be delivered to the Clerk of the House of Representatives if the House is not in session and to the Secretary of the Senate if the Senate is not in session.

“(5) On the day on which a document setting forth the agreement is transmitted to the House of Representatives and the Senate pursuant to paragraph (1), an approval resolution with respect to such agreement shall be introduced (by request) in the House by the majority leader of the House, for himself or herself and the minority leader of the House, or by Members of the House designated by the majority leader and minority leader of the House; and shall be introduced (by request) in the Senate by the majority leader of the Senate, for himself or herself and the minority leader of the Senate, or by Members of the Senate designated by the majority leader and minority leader of the Senate. If either House is not in session on the day on which such an agreement is transmitted, the approval resolution with respect to such agreement shall be introduced in that House, as provided in the preceding sentence, on the first day thereafter on which that House is in session. The resolution introduced in the House of Representatives shall be referred to the Committee on Ways and Means and the resolution introduced in the Senate shall be referred to the Committee on Finance.”

(b) ADDITIONAL REPORTS AND EVALUATIONS.—Section 233 of the Social Security Act (42 U.S.C. 433) is amended by adding at the end the following new subsections:

“(f) BIENNIAL SSA REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—

“(1) For any totalization agreement transmitted to Congress on or after April 1, 2006,



the Commissioner of Social Security shall submit a report to Congress and the Comptroller General that—

“(A) compares the estimates contained in the report submitted to Congress under clauses (i) and (v) of subsection (e)(2)(A) with respect to that agreement with the actual number of individuals affected by the agreement and the actual effect of the agreement on social security system receipts and disbursements; and

“(B) contains recommendations for adjusting the methods used to make the estimates.

“(2) The report required under this subsection shall be provided not later than 2 years after the effective date of the totalization agreement that is the subject of the report and biennially thereafter.

“(g) GAO EVALUATION AND REPORT.—

“(1) EVALUATION OF INITIAL REPORT ON IMPACT OF TOTALIZATION AGREEMENTS.—With respect to each initial report regarding a totalization agreement submitted under subsection (f), the Comptroller General of the United States shall conduct an evaluation of the report that includes—

“(A) an evaluation of the procedures used by the Chief Actuary of the Social Security Administration and the President for making the estimates required by subsection (e)(2)(A);

“(B) an evaluation of the procedures used by the President for determining the actual number of individuals affected by the agreement and the effects of the totalization agreement on receipts and disbursements under the social security system; and

“(C) such recommendations as the Comptroller General determines appropriate.

“(2) REPORT.—Not later than 1 year after the date of submission of an initial report regarding a totalization agreement under subsection (f), the Comptroller General shall submit to Congress a report setting forth the results of the evaluation conducted under paragraph (1).

“(3) DATA COLLECTION.—The Commissioner of Social Security shall collect and maintain the data necessary for the Comptroller General of the United States to conduct the evaluation required by paragraph (1).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to agreements establishing totalization arrangements entered into under section 233 of the Social Security Act which are transmitted to the Congress on or after April 1, 2006.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Monday, May 22 at 2:30 p.m. The purpose of this hearing is to receive testimony regarding nuclear power provisions contained in the Energy Policy Act of 2005.

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

### COMMITTEE ON FINANCE

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Monday, May 22, 2006, in S-219 of the Capitol, immediately following a vote tentatively scheduled for 5:30 p.m. on the Senate floor, to consider favorably re-

porting the nomination of Susan C. Schwab to be United States Trade Representative, with the rank of Ambassador Extraordinary and Plenipotentiary, Executive Office of the President, vice Robert J. Portman.

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

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to hold an off-the-floor markup during the session on Monday, May 22, 2006, to consider the nominations of the Honorable Robert J. Portman to be Director, Office of Management and Budget; Robert I. Cusick to be Director, Office of Government Ethics; and David L. Norquist to be Chief Financial Officer, U.S. Department of Homeland Security.

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

### COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Monday, May 22, 2006, at 2 p.m. to consider the nomination of Lurita Alexis Doan to be Administrator of the U.S. General Services Administration.

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

## NATIONAL INTERNET SAFETY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 486, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title. The legislative clerk read as follows:

A resolution (S. Res. 486) designating June 2006 as “National Internet Safety Month.”

There being no objection, the Senate proceeded to consider the resolution.

Ms. MURKOWSKI. Mr. President, today I introduced a resolution designating June 2006 as National Internet Safety Month. I am pleased to have Mr. ALLEN, Mr. CRAIG, Mr. STEVENS, Mr. VITTER, Ms. LANDRIEU, Mrs. DOLE, Mr. CRAPO, Mr. BURNS, Mrs. LINCOLN, Mr. WARNER, Mr. JOHNSON, Mr. ROBERTS, Mr. SANTORUM, and Mr. DEWINE join me in introducing this resolution.

The Internet has become one of the most significant advances in the twentieth century and, as a result it affects people's lives in a positive manner each day. However, this technology presents dangers that need to be brought to the attention of all Americans. Never before has the problem of online predatory behavior been more of a concern. Consider the pervasiveness of Internet access by children and the rapid increase in Internet crime and predatory behavior. Never before have powerful educational solutions—such as Inter-

net safety curricula for grades kindergarten through 12—been more critical and readily at hand.

i-SAFE America is one of the non-profit organizations that has worked tirelessly to educate our youth and our community on these important issues. Formed in 1998, i-SAFE America educates youth in all 50 states Washington, DC, and Department of Defense schools worldwide to ensure that they have a safe experience online.

It is imperative that all Americans learn about the Internet safety strategies which will help keep their children safe from victimization. Consider the facts: In the United States, about 90 percent of children between the ages of 5 and 17 use computers, and about 59 percent use the Internet. Approximately 26 percent of children in that age group are online more than 5 hours a week, and 12 percent spend more time online than they do with their friends.

An alarming statistic is that 39 percent of youths in grades 5 through 12 in the United States admit giving out their personal information, such as their name, age, and gender over the Internet. Furthermore, 11.5 percent of students in this age group have actually met face to face with a stranger they met on the Internet.

Most disturbing are the patterns of Internet crimes against children. In 1996, the Federal Bureau of Investigation was involved in 113 cases involving Internet crimes against children. In 2001, the FBI opened 1,541 cases against people suspected of using the Internet to commit crimes involving child pornography or abuse.

Now is the time for America to focus its attention on supporting Internet safety, especially bearing in mind that children will soon be on summer vacation and will spend more time online.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 486) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. RES. 486

Whereas, in the United States, more than 90 percent of children between the ages of 5 years old and 17 years old, or approximately 47,000,000 children, now use computers;

Whereas approximately 59 percent of children in that age group, or approximately 31,000,000 children, use the Internet;

Whereas approximately 26 percent of the children of the United States in grades 5 through 12 are online for more than 5 hours a week;

Whereas approximately 12 percent of those children spend more time online than they spend interacting with their friends;

Whereas approximately 53 percent of the children and teens of the United States like to be alone when “surfing” the Internet;

Whereas approximately 29 percent of those children believe that their parents would express concern, restrict their Internet use, or

take away their computer if their parents knew which sites they visited while surfing on the Internet;

Whereas approximately 32 percent of the students of the United States in grades 5 through 12 feel that they have the skills to bypass protections offered by the installation of filtering software;

Whereas approximately 31 percent of the youths of the United States have visited an inappropriate website on the Internet;

Whereas approximately 18 percent of those children have visited an inappropriate website more than once;

Whereas approximately 51 percent of the students of the United States in grades 5 through 12 trust the individuals that they chat with on the Internet;

Whereas approximately 33 percent of the students of the United States in grades 5 through 12 have chatted on the Internet with an individual whom they have not met in person;

Whereas approximately 11.5 percent of those students have later met with a stranger with whom they chatted on the Internet;

Whereas approximately 39 percent of the youths of the United States in grades 5 through 12 have admitted to giving out their personal information, including their name, age, and gender, over the Internet; and

Whereas approximately 14 percent of those youths have received mean or threatening email while on the Internet: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates June 2006 as “National Internet Safety Month”;

(2) recognizes that National Internet Safety Month provides the citizens of the United States with an opportunity to learn more about—

(A) the dangers of the Internet; and

(B) the importance of being safe and responsible online;

(3) commends and recognizes national and community organizations for—

(A) promoting awareness of the dangers of the Internet; and

(B) providing information and training that develops critical thinking and decision-making skills that are needed to use the Internet safely; and

(4) calls on Internet safety organizations, law enforcement, educators, community leaders, parents, and volunteers to increase their efforts to raise the level of awareness for the need for online safety in the United States.

#### WOMEN'S HEALTH WEEK

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 487, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 487) expressing the sense of the Senate with regard to the importance of Women's Health Week, which promotes awareness of diseases that affect women and which encourages women to take preventive measures to ensure good health.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 487) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 487

Whereas women of all backgrounds have the power to greatly reduce their risk of common diseases through preventive measures such as a healthy lifestyle and frequent medical screenings;

Whereas significant disparities exist in the prevalence of disease among women of different backgrounds, including women with disabilities, African American women, Asian/Pacific Islander women, Latinas, and American Indian/Alaska Native women;

Whereas since healthy habits should begin at a young age, and preventive care saves Federal dollars designated to health care, it is important to raise awareness among women and girls of key female health issues;

Whereas National Women's Health Week begins on Mother's Day annually and celebrates the efforts of national and community organizations working with partners and volunteers to improve awareness of key women's health issues; and

Whereas in 2006, the week of May 14 through May 20, is dedicated as the National Women's Health Week: Now, therefore, be it *Resolved*, That the Senate—

(1) recognizes the importance of preventing diseases that commonly affect women;

(2) calls on the people of the United States to use Women's Health Week as an opportunity to learn about health issues that face women;

(3) calls on the women of the United States to observe National Women's Check-Up Day on Monday, May 15, 2006, by receiving preventive screenings from their health care providers; and

(4) recognizes the importance of federally funded programs that provide research and collect data on common diseases in women and highlight racial disparities in the rates of these diseases.

#### ILLICIT COPYRIGHT INFRINGEMENT

Mr. FRIST. I ask unanimous consent that the Senate proceed to the consideration of S. Res. 488, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 488) expressing the sense of Congress that institutions of higher education should adopt policies and educational programs on their campuses to help deter and eliminate illicit copyright infringement occurring on, and encourage educational uses of, their computer systems and networks.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALEXANDER. Mr. President, today I reintroduce a resolution that expresses the sense of Congress that colleges and universities should continue to educate their students about the importance of intellectual property and the harm caused by copyright infringement. I am joined in offering this resolution by Senators LEAHY, HATCH, and NELSON of Florida, as well as my colleague from Tennessee, Senator FRIST.

This measure is very similar to S. Res. 438, a Senate resolution which

three of my colleagues and I introduced last month. I call my colleagues' attention to my remarks on S. Res. 438 and those of Senator LEAHY, which both appeared in the CONGRESSIONAL RECORD on April 7, 2006.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 488) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

#### S. RES. 488

Whereas the colleges and universities of the United States play a critically important role in educating young people;

Whereas the colleges and universities of the United States are responsible for helping to build and shape the educational foundation of their students, as well as the values of their students;

Whereas the colleges and universities of the United States play an integral role in the development of a civil and ordered society founded on the rule of law;

Whereas the colleges and universities of the United States have been the origin of much of the creativity and innovation throughout the history of the United States;

Whereas much of the most valued intellectual property of the United States has been developed as a result of the colleges and universities of the United States;

Whereas the United States has, since its inception, realized the value and importance of intellectual property protection in encouraging creativity and innovation;

Whereas intellectual property is among the most valuable assets of the United States;

Whereas the importance of music, motion picture, software, and other intellectual property-based industries to the overall health of the economy of the United States is significant and well documented;

Whereas the colleges and universities of the United States are uniquely situated to advance the importance and need for strong intellectual property protection;

Whereas intellectual property-based industries are under increasing threat from all forms of global piracy, including hard goods and digital piracy;

Whereas the pervasive use of so-called peer-to-peer (P2P) file sharing networks has led to rampant illegal distribution and reproduction of copyrighted works;

Whereas the Supreme Court, in *MGM Studios Inc. v. Grokster, Ltd.*, reviewed evidence of users' conduct on just two peer-to-peer networks and noted that, “the probable scope of copyright infringement is staggering” (125 S. Ct. 2764, 2772 (2005));

Whereas Justice Breyer, in his opinion in *MGM Studios Inc. v. Grokster, Ltd.*, wrote that “deliberate unlawful copying is no less an unlawful taking of property than garden-variety theft” (125 S. Ct. 2764, 2793 (2005));

Whereas many computer systems of the colleges and universities of the United States, including local area networks under the control of such colleges and universities, may be illicitly utilized by students and employees to further unlawful copying;

Whereas throughout the course of the past few years, Federal law enforcement has repeatedly executed search warrants against computers and computer systems located at colleges and universities, and has convicted

students and employees of colleges and universities for their role in criminal intellectual property crimes;

Whereas in addition to illicit activity, illegal peer-to-peer use has multiple negative impacts on college computer systems;

Whereas individuals engaged in illegal downloading on college computer systems use significant amounts of system bandwidth which exist for the use of the general student population in the pursuit of legitimate educational purposes;

Whereas peer-to-peer use on college computer systems potentially exposes those systems to a myriad of security concerns, including spyware, viruses, worms or other malicious code which can be easily transmitted throughout the system by peer-to-peer networks;

Whereas, according to a recent study released by the Motion Picture Association of America, students at colleges and universities in the United States accounted for \$579,000,000 in losses to the motion picture industry of the United States in 2005, which represents 44 percent of that industry's annual losses due to piracy;

Whereas computer systems at colleges and universities exist for the use of all students and should be kept free of illicit activity;

Whereas college and university systems should continue to develop and to encourage respect for the importance of protecting intellectual property, the potential legal consequences of illegally downloading copyrighted works, and the additional security risks associated with unauthorized peer-to-peer use; and

Whereas it should be clearly established that illegal peer-to-peer use is prohibited and violations punished consistent with upholding the rule of law: Now, therefore, be it

*Resolved, That—*

(1) colleges and universities should continue to take a leadership role in educating students regarding the detrimental consequences of online infringement of intellectual property rights; and

(2) colleges and universities should continue to take steps to deter and eliminate unauthorized peer-to-peer use on their computer systems by adopting or continuing policies to educate and warn students about the risks of unauthorized use, and educate students about the intrinsic value of and need to protect intellectual property.

#### ORDERS FOR TUESDAY, MAY 23, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, May 23. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate resume consideration of S. 2611, the Comprehensive Immigration Reform Act; further, that the Senate stand in recess from 12:30 until 2:15 to accommodate the weekly policy luncheons.

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

#### PROGRAM

Mr. FRIST. Mr. President, to clarify, we will have a vote on the pending Feinstein amendment regarding the orange card program. Members can ex-

pect this vote to occur shortly before 11 a.m. That will be the first vote.

A few moments ago, I filed cloture on the immigration bill and a judicial nomination. We have a lot of work to complete this week, including other nominations and the supplemental appropriations conference report if it becomes available. Members can expect a busy week as we work through our remaining business before the upcoming recess.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

#### TRIBUTE TO JUDGE EDWARD R. BECKER

Mr. SPECTER. Mr. President, I have sought recognition to comment on a funeral service that was held earlier today for Judge Edward R. Becker. Judge Becker was one of the greatest citizens in the history of the city of Philadelphia and one of the greatest Federal judges in the history of the United States. When the contemporary history is written of the past 50 years, I believe Judge Becker will rank with Benjamin Franklin among the greatest of Philadelphia citizens, and with Judge Learned Hand, who is among the greatest Federal judges.

I first met Judge Becker in 1950 when we rode public transportation from northeast Philadelphia to the University of Pennsylvania, an hour ride each way, where we attended that school. He was 17 at the time; I was 20. He was a freshman, and I was a senior. He had an extraordinary academic record, Phi Beta Kappa from Penn, Yale Law School, a distinguished record in the practice of law, and he became a Federal judge at the age of 37. He served on the U.S. District Court for the Eastern District of Pennsylvania for 15 years, until he was elevated to the Court of Appeals for the Third Circuit.

During 35½ years, he had an extraordinary record as a Federal judge. On several occasions, Judge Becker's opinions were followed by the Supreme Court of the United States on cutting edge questions. In one case, Judge Becker wrote the opinion for the Court of Appeals for the Third Circuit, which was in disagreement with the conclusions of seven other courts of appeals. When the issue got to the Supreme Court of the United States, the Supreme Court followed Judge Becker.

He was a man of great charm and great versatility. One of his opinions was written in rhyme. He was an extraordinary pianist and was called upon by the Supreme Court not only for his legal erudition but for playing the piano at the so-called Supreme Court sing-a-longs. He was the recipient of the Devitt Award, which is given to the outstanding Federal jurist on the basis of scholarship, achievement, and community service.

Even as chief judge of the Court of Appeals for the Third Circuit, he rode the elevated public transportation to

work every day. Among his many attributes were intelligence—really brilliance—integrity, independence, loyalty, and a sense of humor. But his greatest attribute was his modesty and his humility.

He lived in the same house he came to as a child of 3 or 4 years of age and was always a friend equally to the janitors in the Federal courthouse as he was to Supreme Court Justices.

Regrettably, Judge Becker contracted prostate cancer and fought a valiant fight but succumbed last Friday to the ravages of the cancer and, today, as I say, we celebrated a great life and an outstanding life. One of the real regrets I have is that we have not yet found a cure for cancer, which could have saved Judge Becker's life.

In 1970, the President of the United States declared war on cancer and had that war been pursued with the same diligence and resources that we pursue other wars, Judge Becker would not have died from prostate cancer. Two years ago, my chief of staff, Carey Lackman, a beautiful young woman of 48, died of breast cancer. A year and a half ago, a good friend, Paula Kline, wife of Tom Kline, my former law partner, died of breast cancer. It is something that we hear about every day.

The reality is that the United States of America, with a gross national product of \$11 trillion and a Federal budget of \$2.8 trillion, could conquer cancer and the other maladies if we approached it with sufficient resources and a sufficient sense of urgency. We have a budget for the subcommittee of appropriations that I chair which has to fund the Departments of Health, Education and Labor, workman safety, which has had cuts of \$15.7 billion in the last two fiscal years, factoring in inflation. We have a budget resolution that passed, which would add \$7 billion—insufficient but at least a start in making up some of that deficiency which would allocate \$2 billion to the National Institutes of Health.

The Federal Government is precluded from financing embryonic stem cell research, which ought to be reversed by this body.

Judge Becker is well known to the Senate. Shortly after he achieved senior status, when he turned 70 in May of 2003, I asked him to participate in our legislative efforts to have asbestos reform. In August of 2003, for 2 days, he convened the so-called stakeholders—the manufacturers, the trial lawyers, the AFL-CIO representing labor, and the insurance industry in his chambers. And for the intervening almost 3 years he has presided at about 50 meetings where large groups assembled in my conference room on Capitol Hill, working for a resolution of the asbestos litigation crisis, where thousands of people suffering from mesothelioma are unable to get compensation because their companies are bankrupt. Seventy-seven companies have gone under bankruptcy.

Judge Becker, well known to this body, is really befitting of the title of

the 101st Senator. I think his passing from prostate cancer will make a deep indentation and mark on this body and will serve as a signal for action to attack cancer, attack prostate cancer, to find a cure for cancer. His passing leaves a very deep mark on his family, three children, his widow, four grandchildren, and many friends, many of whom are in this body. His record is truly that of an extraordinary jurist and a great American.

I yield the floor to my distinguished colleague from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I am honored to have been here this evening to hear the remarks of Senator SPECTER about his friend Judge Becker. I came to know him and respect him greatly myself. I remember it was Judge Becker this and Judge Becker that as we wrestled with the asbestos litigation. Senator SPECTER, I knew, had such extraordinary respect for him. I guess it probably would be fair to say that in the last year, if there had to be a 101st Senator, he might have been the one we would name because he met time and time again with Senators and groups and interests and people to try to work out an asbestos bill that would be effective.

I came around to the thinking that he was exactly correct and agreed that he and Senator SPECTER had the right approach to that historic piece of legislation.

I am very sad we never could move it forward, but Judge Becker provided a great and extraordinary contribution to the legislation. In getting to know him, talking to him about other judges, he talked about Bill Pryor, a judge from Alabama who was recently confirmed. He knew and studied his record. I came to feel that he was a fine and decent person who loved his country and just didn't want to retire and sit around. He was right in the middle of things to his last days on this Earth.

I thank Senator SPECTER for allowing us the opportunity to get to know him. I hope he will convey to Judge Becker's family our admiration and respect for him.

Mr. SPECTER. Mr. President, if the Senator will yield, I thank him for those very generous comments. I kept Judge Becker fully informed as to our work on the asbestos legislation. The leader has stated his interest in bringing the legislation back to the floor. I continue to lobby our colleagues one by one. I gave Judge Becker a report a few days before his passing, and he said: Let's pass one for the Gipper.

Mr. SESSIONS. I am not surprised. I am not surprised at all that he would be focused on policies that are important for America, even during his suffering.

I thank Senator SPECTER for letting us get to know him.

#### IMMIGRATION REFORM

Mr. SESSIONS. Mr. President, cloture has been filed on the immigration

legislation, and I suspect cloture will be obtained on the immigration bill. We will have a vote later on in the week. The train is moving. People simply want to do something, and I suppose that is where we are headed.

I wish to make a couple comments about it. First, the difficulty we faced was that the bill which came out of the Judiciary Committee to the floor of the Senate, which was essentially the Kennedy-McCain bill, was not good legislation. In fact, it was so broadly problematic that I thought and said from the beginning there was no way we could file amendments to fix that bill. It was unfixable. It had too many basic problems that had not been evaluated carefully, that should have been thought through carefully before it was ever filed.

Senator SPECTER just left the Chamber. He supports immigration. We started in the Judiciary Committee a few months ago—really just a couple of months ago—and his bill was a lot better than the bill that came out of the Judiciary Committee. The chairman's mark had a number of provisions in it. It did not have an automatic path to citizenship, for example. So we spent several days talking around at the committee. Senator FRIST said he wanted this bill on the floor a certain date. That was a Tuesday. He wanted the bill out of committee. On Monday, we were still talking about various technical, complex legal issues and debating them and worrying about law enforcement issues, and, boom, the Kennedy-McCain bill is offered as a substitute to the Specter bill in committee. With about an hour's debate, this several-hundred page bill became the bill in committee.

A few minutes later with very little debate, the agriculture jobs part was added to the bill, and that is what came out of committee. It was incredibly broad, huge in its increase in legal immigration into the country, as well as I think inadequate enforcement and overreaching in amnesty and a lot of other issues.

So here we are trying to pass this legislation. I guess we have done it now. I spent some time pointing out some of the difficulties, and I will continue to do so. I will say this: The legislation that will hit the floor presumably this week and will be up for a vote should not be passed by us.

I have four amendments on which I would like to have votes. I know what is going to happen. Cloture has been filed, and I will be lucky to get one vote on the four amendments I will be filing tonight, to get legislative council to approve them and worry about germaneness and a lot of other things, but I am ready to file these amendments and will file them.

I want to talk about those amendments, and I ask the American people and my colleagues to think about some of the issues in these four amendments and ask: Should not, when we set about establishing a new immigration policy

for America, which has consistently been a 20-year policy—we did one in the mid-sixties and we did another one in 1986. Here we are 20 years later in 2006 passing another one. We are going to pass a bill that could set policy for quite some time. It ought to be a good bill. It should be a bill of which we are proud.

It should be a piece of legislation that considers the relevant issues facing our country and tries to fairly and decently and justly treat people who want to come here in a legitimate way, but fundamentally what we should be asking ourselves is how many people this country can accept and what kind of skill levels should they have, what expectation do we have that they will be successful when they come to this country and be able to take advantage of the opportunities that are here, to be able to pay taxes to the Government more than they draw from the Government, and those kinds of questions. That is what we are about. I submit that the legislation fails in that regard.

I have four amendments. One is a numerical limit amendment. It would cap the immigration increases caused by the bill to the numbers CBO and the White House tell us to expect, 7 million under amnesties and 8 million in new immigrations in the next 10 years. We had somewhat of a dispute. This bill is 600 pages. It is exceedingly complicated. It has a host of different categories. It has caps that apply and numbers that don't apply to caps and are exempted from caps. It is hard to figure out how many people might actually come.

The Heritage Foundation and my staff have concluded that we are looking at four times the current rate of immigration. It was 5 to 10 times the current rate of immigration until we discussed these huge numbers at a press conference last Monday, and Tuesday we adopted an amendment to knock that down. We think the immigration in that country will range from 73 million to 93 million people over the next 20 years. That represents approximately four times the amount we now allow in, which is a little less than 1 million a year, so it will be a little less than 19 million over 20 years, five times current rate, four times current rate at a minimum, we think.

The administration and CBO say some of those numbers were not good enough, and they came up with some figures.

That amendment would be designed to say: OK, we will look at your numbers and see if we can just make that the law so it won't be confusing. At least we will know what the numbers are. If the administration numbers are correct and the CBO numbers are correct, they are too high, way too high, but at least we would know what they are. At least we wouldn't have to worry that they might go and explode out of reason.

Another amendment we will be offering is the amendment to eliminate the

earned income tax credit for illegal aliens and those who adjust status under this bill. Once illegal aliens become citizens, they will once again be eligible for the earned income tax credit, which is nothing more than a Government payment. It is a Government subsidy to low wage American workers, and it is very large. I will talk about that in a minute.

Chain migration. We will offer an amendment that would eliminate certain chain migration provisions in this bill. If we want to admit more skill-based immigrants, we must reduce the right of immigrants to bring in certain categories of relatives automatically and they have an automatic right on the list to be able to come in. We need to make that choice. Why is this Senate dodging that issue? I don't know. Other countries, as I have noted just a few moments ago, are going in exactly the opposite direction. They are focusing less on some sort of connections and more on work skills.

Then I will offer an amendment that deals with green cards for future flow H-2C workers. This would be an amendment to make sure that H-2C workers who come in the future—not those given amnesty under this bill—will be subject to the annual numerical limits on employment-based green cards when they apply. There is some dispute about that. We were told originally: Oh, yes, they apply, the caps apply, these limits apply. And then we read the legislation carefully, and under that provision, it says: If you qualify for a green card, the Secretary shall give you the green card. And it appears that “shall” means you will get it whether the caps apply or not, or whether the caps would apply.

I shared earlier thoughts about the large numbers and the CBO numbers in that amendment. I have discussed it. I would like to take a few moments to discuss the earned income tax credit limit.

This amendment would do two things. One, it would clarify existing law that makes illegal aliens ineligible to claim the earned income tax credit and postpones the ability of illegal aliens who are given status by this bill to claim the earned income tax credit until they become citizens. So the amendment is clearly a moneysaver. It is also a way to make sure that illegal aliens are more likely to contribute more in taxes than they are taking out. The inability to claim the earned income tax credit should be one of the things added to the list of items illegal aliens will have to agree to do in order to receive the benefits of the amnesties contained in title VI of the bill. Other items on the list include a background check, a medical check, and payment of back taxes, and being required to not claim the EITC until the illegal alien becomes a citizen is a natural addition to that list.

The EITC tax credit was established in 1975. It is a refundable tax credit for families that can offset income taxes

or provide a tax credit directly to the family. According to IRS data for 2003, 22 million households received \$39 billion in EITC payments, an average of \$1,782 per household or \$2,100 for any families with children.

Now, let me just repeat that. This is a huge Government program. And most of the low-income people don't owe any taxes. If you are making below \$20,000 a year, you are unlikely to pay any income taxes. If you have children, you certainly are not going to be paying any income taxes. So how do you get a tax credit if you don't pay any taxes? Well, they send you a check. That is what they do. You file your tax return at the end of the year, and if you have worked and your income was lower, they send you a check. We looked at the numbers. If you are a minimum wage worker and you make around \$14,000 a year, that family would receive a check, a subsidy from the Government of 4,700-and-some-odd dollars.

So this was designed to encourage Americans to work. It was a plan to make work more attractive for people on welfare. Do you remember all that talk: Well, you can make more money on welfare than you make working. So a brilliant Congress, a number of years ago, came up with this idea that we would just give people extra money if they would work. It will be less than welfare, so why not do it? OK. That is what we did. But it was not designed to reward illegal aliens for coming into the country illegally, for heaven's sake. But that is what this bill does. As soon as they get that regularized status, they get it.

Now, this would allow them to get the earned income tax credit if they become a citizen but not before. That is not required of us. It is not required of the Senate that we should provide a \$2,000 bonus check to individuals who work in our country, who seem to be happy to get the wages they are being paid, a \$2,000 bonus check from Uncle Sam as a result and as an incentive for coming into the country illegally. That is a really big issue.

To qualify for the credit, married couples filing jointly who earn certain sums of money would qualify. For example, a single mother with two children, the earned income tax credit provides a tax credit for 40 percent of every dollar earned, up to \$11,340. A family that earned between \$11,000 and \$14,000 received a maximum credit of \$4,536, not \$4,700. After the floor of \$14,810 is reached, the credit is slowly reduced until the income cap of \$36,000 is reached. It is only then that it is eliminated. For 2006, the maximum amount of the earned income tax credit is \$4,556 for a worker supporting two kids and \$2,747 for a worker with one child, \$4,012 for a child of eligible employees and adjusted for inflation.

Now, a Social Security number is required in order to reap the benefits of this tax credit, and those applying must have a valid Social Security number and be a resident alien. Valid So-

cial Security numbers are given out to all legally working people in the United States—legally working aliens. Legal permanent residents and citizens have Social Security numbers.

Under the tax law, resident aliens are citizens of a foreign country who are either lawful permanent residents of the United States or have been physically present in the country for at least a certain specified amount of time during the past 3 years. They are taxed in the same manner as U.S. citizens, and thus they qualify for the refundable tax credits.

According to the IRS, under the residency rules of the Tax Code, any alien who is a nonresident alien—an alien will become a resident alien in one of three ways: No. 1, by being admitted to the United States as or changing in status to a lawful permanent resident under the immigration laws; No. 2, by passing a substantial presence test, a numerical formula which measures days of presence in the United States; or No. 3, by making what is called the first year election, a numerical formula under which an alien may pass the substantial presence test 1 year earlier than under the normal rules.

Under these rules, legally present work-authorized aliens who pass the substantial presence test will be treated, for tax purposes, as resident aliens. They are able, then, to claim EITC. Under these rules, even an undocumented illegal alien who passes the substantial presence test will be treated for tax purposes as a resident alien. If they are using a fraudulent Social Security number, they can apply for the EITC. If they are using a legal IDIF number, they cannot apply.

Under S. 2611, the bill before us today, if illegal aliens pay their taxes legally today, they do so with an individual taxpayer identification number they are given for tax purposes. The ITIN cannot currently be used to get the EITC because a Social Security number is required to claim the EITC. They are not eligible to get a Social Security number.

So under S. 2611, illegal aliens will become legally present and work authorized immediately upon passage of the act. They would then be given Social Security numbers and will pass the substantial presence test, making them automatically, at once, eligible to claim the very generous benefits of the EITC.

The Congressional Budget Office has looked at this and tried to figure out what the cost would be. American taxpayers would pay this. This would be a new cost on the taxpayers, created by the very bill that is before us today. Under the current legislation, in S. 2611 as initially offered and came out of the Judiciary Committee, the preliminary CBO score revealed the following about directed spending contained in the compromise. They say this:

CBO and Joint Tax Committee estimate that direct spending outlays would total about \$8 billion for the first 5 years, 2007

through 2011, and \$27 billion for the first 10 years. Most of those costs are for the earned-income tax credit and for Medicaid and food stamp programs. Costs in subsequent decades would be greater than in this first 10-year period.

"Costs in further decades would be greater than the first decade." Mr. Robert Rector of the Heritage Foundation has worked on numbers like this. He was the architect of the welfare reform. He said to us recently, a group of Senators: Senators, this is how this Government gets out of control. This is how things go wrong. You don't start out to pass a bill that is going to cost \$29 billion. You don't think it through. You pass the legislation, and a new Congress 20 years from now wakes up and says: How did this ever happen? We don't have the money to pay for this. We made this obligation way long ago. How are we going to get out of it? Maybe we should cut back.

Then all the protests start because you can never cut a program, it seems.

He warned us about that. That is exactly what is happening with this particular provision in the legislation.

Once the Hagel-Martinez bill became S. 2611, I, along with five other Senators, asked CBO to provide a comprehensive score so we would know how much this amnesty provision would cost the taxpayers. The final CBO score estimates that, of the 2007–2016 period, 10 years, this bill would increase outlays for refunding tax credits \$29.4 billion, the largest direct expenditure in the bill—\$29 billion.

I had a conversation a few moments ago with a fine Senator who is concerned about spending. He was sincerely asking me about the cost of enforcement at the border and at the workplace in our country. Where are we going to get this money so we are not just putting it to our grandchildren? I don't know how much it is going to cost. We spend \$40 billion now on homeland security every year. Maybe this is going to cost \$5 or \$6 billion. A lot of it will be one-time costs, setting up computer systems and border barriers and in purchases of equipment. A lot of that will be repetitive, like border patrol and bed spaces or removing people from the country. But it will not exceed \$29 billion, trust me. It will be a fraction of that.

Mr. President, \$29 billion is a lot of money under any circumstances, I have to tell you. You can buy three aircraft carriers for \$29 billion. They have 4,000 people on them. Mr. President, \$29.4 billion will be added. These refundable tax credits will include EITC and child tax credits, where most of the cost is clearly attributable to the EITC. To clarify, the credit first reduces an individual's tax liability. If the credit exceeds the tax liability, the excess is sent to the individual in the form of a check from Uncle Sam. These refunds are classified as outlays in the Federal budget. They are classified as outlays. They are not classified as tax deductions because they are, in fact, outlays.

They are, in fact, payments from Uncle Sam sent in the form of a check to individual Americans.

In conclusion, I would note the bill increases the amount of refundable tax credits by increasing the number of resident aliens, people who are illegal today, converted to resident aliens. Although this bill grants amnesty to those who came illegally, it is not required, in my view, that they be absolved from all consequences of coming here illegally nor be provided every benefit we provide to those who come legally. Certainly nothing is strange or unusual in that.

If we decide to give certain benefits to people who came here illegally and not give them to others, what is wrong with that? For example, we are going to allow them to stay in the country. At least overwhelmingly, they will be able to stay in the country. We are going to forgive them for being prosecuted. Do we have to then also reward them for their illegal activity by providing a sizeable check every year from the Federal Government? No, you don't have to do that. If they become a citizen one day, fine, they are entitled to the same benefits of every other American citizen. But not in the interim.

My amendment clarifies existing law to make sure that illegal aliens—existing law—who pass the substantial presence test cannot use fraudulent Social Security numbers to claim the earned-income tax credit, and it postpones the ability of illegal aliens at a given status, some sort of legal status by the bill, to claim the earned-income tax credit until they become citizens. I believe that is the right approach. It is unthinkable that we would provide this kind of incentive when it really has no necessity.

Mr. President, I would like to share some thoughts about another amendment. It deals with chain migration. It would reduce chain migration by eliminating the provisions in the Immigration and Nationality Act that allow parents and adult brothers and sisters to immigrate to the United States based solely on their family connections. Chain migration refers to the mechanism by which foreign nationals have the right to immigrate to the United States by virtue of one single characteristic: they are related to someone who previously immigrated to the United States. Chain migration does not refer to spouses and dependent children of immigrants. That does not encompass wives and children. Nothing in this amendment would say that a green card holder, a legal permanent resident or citizen would not be able to bring spouses and children. That will remain the law under this amendment. No changes are made whatsoever. But for immigrants who become citizens, chain migration refers to their ability to bring in parents, brothers and sisters, and spouses, and children of their brothers and sisters.

You get to bring in your parents, your brothers and sisters, and the

spouses and children of your brothers and sisters. People who immigrate based on this family relationship are in no way evaluated for their skill levels, their age, their English proficiency, or if they are needed by the American economy whatever skills they have. How they will benefit the United States is completely irrelevant to this process. The only relevant characteristic is their family connection.

Until the late 1950s, American family immigration policy focused solely on the nuclear family; only spouses and minor dependent children of the immigrant were allowed to immigrate solely on their family connection.

In the late 1950s, family migration policies of the United States began to extend beyond children and spouses. Immigrants were allowed to bring in their adult unmarried children. You are here, you can bring in adult children from that foreign country. But they are unmarried, and you can bring them. Immigrants who became citizens were allowed to bring in their married adult children and their parents and their brothers and sisters, parents and brothers and sisters, and adult children can bring in their own spouse and their children. If the extended spouse has parents and siblings, they, too, can get in line to immigrate to the United States based solely on the family connection.

To show you a little bit how this works—it sounds a bit complicated. By viewing the charts behind me, maybe we can make this a little bit clearer.

Here are the people in green. That means they possess a green card. You can get green cards in any number of ways if you come in under the language of this legislation that is so inaccurate. Let me say it that way.

Under the rubric they call a temporary guest worker, the first day you are here, your employer can apply for a green card, and within a month presumably you will get that green card. Once you become a green card holder, you become green on that chart, but you also became a permanent resident of the United States, not a citizen.

What happens when you become a permanent resident? You can immediately bring in your spouse and your children, maybe half a dozen children. You can bring in all of those children.

One thing about this amnesty is this: There are a lot of people who are working in our country today who have not brought their families. They have not been that interested in bringing their wives and children here, but under the bill, we give them legal status. We allow them to become a green card holder in short order, and then they are automatically allowed to bring in their spouses and children.

Five years after they get the green card, they can apply to be a citizen. So 5 years, they become a citizen. Here is the family now, this group here, green. They come over. This is the nuclear family: Father, mother, and two children. The mother is now legal. She can



bring in her parents; he can bring in his parents.

What about brothers and sisters? Each one gets to bring in their brothers, and then they can bring in their wife and their children.

This lady has one brother. She allows that brother to come in as a relative within the category, and then he can bring his wife and his children.

What about her? She probably has brothers and sisters, too. Once she gets in and gets in the system, she can bring her brothers and sisters and her parents into the system. The father here can bring in his brother or sister, and she can bring in her husband and her two children, or however many they have.

I believe somebody detailed once on the floor of the Senate that one family brought in 85 under this system. It is not at all impossible to imagine. Can you see how it can happen? One person comes in, and as a result of the family connections he brought in 85. I think that was Senator Allen Simpson in the debate 20 years ago in 1986.

It is a remarkable story, how the nuclear family, 5 years after they become citizens, can bring in their parents.

What can the parents do? The parents can bring in their parents, if they are still alive. They really can. Maybe they are 90. They can bring in their brothers and sisters. All the uncles can come in through the parents. The wife can bring in brothers and sisters. Then the wife brings in her brother, who brings in his wife and two children, and she brings in her parents. It just goes on and on.

We would like to do the right thing. We would like to be generous. Someone made the argument, I guess at one point in time it seemed like a good idea to have that policy. But every now and then, when we review a bill once in 20 years, you would think we would have discussed this. It has not been discussed, to my knowledge. Not a single

Senator has discussed it on the floor of the Senate, to my knowledge. No amendment has been offered on it. It was not discussed, I don't think, but maybe just in passing in some of the Judiciary Committee debate of which I was a member. It is a serious matter.

Obviously, we ought to do a better job of thinking through who should come to America. I keep thinking about a valedictorian in the Dominican Republic, some small town in Colombia, Peru, or Brazil, top of his class, learned English, speaks it well, and wanting to come to the United States of America. We have a limited number of people who come. He can never get in because grandparents, great-grandparents, brothers and sisters and grand-nephews are coming in under migration, crowding those numbers out. With regard to all of these people, there is no requirement of any educational level, no requirement of any job skills or any other capability.

I think we need to make progress. There is no reason in the world we shouldn't be discussing that in an effective way. Over the past 5 years, approximately 950,000—almost 1 million—extended family members immigrated to the United States and immediately received a green card—lawful permanent resident who will never have to leave.

The numbers equal about 20 percent of all aliens who immigrated to the United States in the last 5 years. Immigration, therefore, makes up a significant portion of family-based immigration.

If we want to discuss the percentage of family-based immigration and increase the percentage of skill-based, it makes sense that we would deal with this issue. I think this amendment needs to be considered. I am disappointed that we really have not had time, with cloture being filed we will not have time to seriously discuss that.

Let's talk about one more issue. I don't mind saying I cannot be sure that

we have dealt in years with a bill more important than this one. Mr. Rector of the Heritage Foundation said this bill is so significant it compares with the passage of Social Security and Medicare, in his opinion. He has been a student of these things for several decades. This is a huge piece of legislation.

What has happened, a group has gotten together. They have reached a compromise. We were told flatout the other night that one of the amendments could not be accepted because the people who put the compromise together would not accept it. They would not accept the amendment because they said it violated the compromise, the compromise would fall apart, and we could not amend it in that fashion. And it failed. The machinery around here is working.

We will have an opportunity to talk about this additional issue tomorrow. I will plan to do that then. I am proud at least to have had the opportunity to talk about this. The fact is, we are not going to be able to vote on this. We will be lucky to get a vote on one of them, and then this will be voted on. I assume it will be passed and sent to the House of Representatives. If we are fortunate, the House of Representatives will say it has to be better; we will not accept it; we are going to insist on that before we pass it.

Who knows what will happen in the political processes of our country?

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ADJOURNMENT UNTIL 9:45 A.M.  
TOMORROW

Mr. SESSIONS. 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 8:22 p.m., adjourned until Tuesday, May 23, 2006, at 9:45 a.m.