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Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia.

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

Let us pray:

Eternal and Almighty God, we have lived long enough to know that we cannot escape Your presence or Your love. Teach us Your way of salvation and show us the path that leads to a meaningful life.

Today, use our lawmakers to accomplish Your will. Stretch their understanding so that they will have the right priorities. Give them a creativity to devise strategies which will make our Nation and world better. Enter their hearts and make them Your faithful servants. Equip them to relieve suffering and to serve sacrificially. Make their highest motivation be not to win over one another but to win with one another by doing Your will.

We pray in Your awesome Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHNNY ISAKSON 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).

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 21, 2006.

To the Senate:

Under the provisions of rule 1, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHNNY ISAKSON, a Senator from the State of Georgia, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. ISAKSON thereupon 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 begin a 30-minute period of morning business, which will be equally divided between the two sides. Following that morning business, we will return to the motion to proceed to the border fence act. Cloture on the motion to proceed was unanimously invoked yesterday. The postcloture time will expire at 5:45 this afternoon. We will be on the bill at that time, or if an agreement is reached with the Democratic leader, we hope to proceed to it at an earlier time. Senators will be alerted as to the prospects for rollcall votes as we determine what the rest of today's schedule is.

ACTIVITY IN THE SENATE

Mr. FRIST. Mr. President, we have a lot of activity going on, both on the floor and also off the floor. We have several conference reports, in terms of appropriations bills—Homeland Security and Department of Defense. We are making real progress. We will address those next week. An issue which I am constantly asked about by press and constituents is what progress is being made and how much progress is being made on the legislation surrounding terrorist camps and terrorist military tribunals and terrorist surveillance. There is a lot of activity at the committee level. Negotiations are underway and, hopefully, we will be able to report back more on that later this afternoon.

Today, I believe most of the debate postcloture time will be used on border security and on the issues surrounding immigration. We will have votes on Monday and, I would say, they are likely Friday. As I have said each day this week, we may have to be in next Saturday. I urge our colleagues to focus on accelerating their work at the committee level so we can finish at a reasonable time next week.

Mr. REID. Mr. President, has the majority leader made a decision as to when we are going to vote Monday?

Mr. FRIST. Monday afternoon around 5 o'clock to 6:30. There have been several questions about that.

Mr. REID. The other question is, I recognize that other than delaying things, if the majority wants to go home, that is what we do because we have fewer votes than they have. But my Senators are asking, and staff is asking, is this Friday and Saturday the date that the majority is going to go home?

Mr. FRIST. Next Friday or Saturday.

Mr. REID. The reason I say that, if there is some anticipation that if things don't work out, we are going to go beyond next week, our folks should know that.

Mr. FRIST. It is very important, Mr. President, that we keep everybody's schedules clear because there are campaigns going on. People need to get back to their States. It is our intent that we are going to stick with it. Unless there is an unforeseen emergency of some sort, we will finish next week. We will be out this month. My intention is to finish Friday, working with the Democratic leader in that regard. There is very important business for us to do, and that should send a signal that we have to keep our committees and conferences working for the rest of today, tomorrow, and over the course of the weekend and into next week.

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

Unless there is something very surprising, I expect we will be out this month. I would like for it to be Friday, but it may be Saturday.

Mr. REID. The majority leader and I have had private conversations. It is my further understanding that the majority leader is planning on coming back the following Monday after the elections?

Mr. FRIST. The following week.

Mr. REID. Monday or Tuesday?

Mr. FRIST. Right. It is clear that over the next 8 or 9 days, we have unfinished business we absolutely must do. Looking at the calendar, either that Monday or Tuesday of the week following the elections, we will be back in.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee.

The Senator from Michigan is recognized.

PHYSICIAN MEDICARE PAYMENTS

Ms. STABENOW. Mr. President, I rise today to urge my colleagues to come together to pass an update of the physician Medicare payments and to stop what will be over a 5-percent cut that will take place in January if we do nothing.

We need to have a sense of urgency about this issue. Eighty Senators on both sides of the aisle—80 out of 100—came together and signed a letter to our leader asking that a positive Medicare payment update for 2007 happen before the Senate adjourns. Senator REID spoke on the floor in support of that effort. I urge our Senate leader to come to the floor, and in the final days of the session before we break for the elections do what 80 people in this Senate—80 Senators out of 100—have come together and agreed physicians must be provided, which is a positive Medicare payment update for 2007.

I am deeply concerned that after the election we may or may not have the focus in order to be able to get that done before the end of the year. It is vital not just to physicians but to the people we represent—the seniors, people with disabilities—that we get this done. Eighty Senators out of 100 have sent a letter to our two Senate leaders and have urged that we act now. Senator REID has indicated his support for doing that. We need our Senate leader to bring this to the floor so we can get it done.

I joined these 80 Senators in sending that letter in July because we know that if we don't provide even a minimum update, we destabilize the Medicare system and put all patient access to health care at risk. That is not an understatement.

There needs to be a tremendous sense of urgency about this issue. What has happened since July 17 when we sent the letter? Nothing. There has been no committee hearings, no markups—despite 80 Senators agreeing that we have a need to provide a minimum update for physician services. There has been no effort by the majority leader to bring this issue to the floor. We have had no willingness to bring up an issue that has incredible significance to tens of millions of Americans all across our country.

I am here this morning because we have only 7 days or 8 days—whatever the number is—left before we adjourn for the elections. We don't know what will be happening after that. We certainly know there are many critical issues left and much to be done. The appropriations process isn't completed. There are many items on the agenda after the election. It is very uncertain what will be happening. We know that right now we can get it done. We do know with certainty that come January there is going to be a 5-percent cut for physicians and fewer physicians being able to care for our seniors and people with disabilities if we do not act.

With 80 people urging that we act, this should be a simple process. This should be, as they say, a no-brainer to bring this to the floor and simply get it done. We need to do something today. There is no reason not to do this today. We can get it done quickly. Eighty Senators wrote:

> The undersigned Members respectfully urge you to ensure that these impending cuts are addressed before Congress adjourns. At a minimum, we must provide physicians with a positive Medicare payment update for 2007.

So we have the critical mass necessary to get this approved. The change we are seeking in law directly tracks MedPAC's recommendation for what the physician payment update should be for 2007. So we have a solid policy. We have an overwhelming majority of Senators, based on solid policy, and we know if we don't make this change, our seniors and people with disabilities are going to lose access to their doctors.

We know from a recent survey conducted by the AMA that if the scheduled cuts go into effect, 45 percent of doctors will decrease the number of Medicare patients they accept. Fifty percent of doctors will defer the purchase of health information technology which, I might add, is an area where we, under our budget jurisdictions for Medicare and Medicaid and other health care programs, will reap huge savings, hundreds of billions of dollars with health information technology. But you cannot tell a physician who is trying to make ends meet to be able to continue to serve people that, by the way, we are going to cut your payments coming in, but we want you to buy new hardware and software and train people and do all of these other things so that the Federal Government can save dollars. It doesn't make any sense.

We also know that 37 percent of doctors practicing in rural communities—and in my great State of Michigan, we have a huge, beautiful rural part of our State. I grew up in one of those small towns, in Clare, in the northern low peninsula.

I understand about access to physicians and access to health care. We know that 37 percent of doctors practicing in rural communities will be forced to discontinue rural outreach, and 43 percent of physicians will decrease the number of new TRICARE patients they serve. So we clearly have a need.

Also, we know that when we cut payments, whether it is to physicians, hospitals, home health care agencies, or nursing homes, we do not really save any money. We just create more people who cannot get the care they need when they need it. And what happens? They walk into the emergency room sicker than they should be. They get the care they need. Our hospitals provide that care. But then they have to recoup those costs, so they roll those costs over to everybody with insurance. In a State with a huge manufacturing base, with employers that provide health care, this goes right on their backs. Businesses large or small end up seeing their health insurance rates go up. So the private sector ends up paying for all of these expenses, and it does not save money to cut physicians' payments or other Medicare or Medicaid payments, either one, because then the private sector has to look for ways to cut. They ask working people and their families to pay more for health care or they cut the kind of health insurance they have. What happens? More people walk into the emergency room. This happens every day.

What are we waiting for? We have 7, 8 days left. We have a clear problem and a clear solution and a clear majority of Senators who want to see this fix happen.

Over 20,000 M.D.s and D.O.s in Michigan provide more than 1.4 million seniors and people with disabilities in Michigan with high-quality medical

services under the Medicare Program. Our Michigan families get wonderful care from wonderful doctors. Our American families receive wonderful care from wonderful doctors. But the question is, Will they be able to continue to receive those services? I would argue, not unless we do something now about the payment system used to reimburse physicians for Medicare services.

Beginning January 1, 2007, the Medicare sustainable growth rate formula will cut payments to physicians and health care professionals by 5.1 percent. What does that mean in real dollars? In Michigan alone, it is $137 million in cuts to Medicare. The average cut for a physician in Michigan will be $34,000. As medical costs go up—as we see the cost of sustaining an office and other costs and medicine going up, everything is going up—we are cutting back on the physicians' reimbursements. These cuts will be particularly devastating for primary care doctors, the very doctors, according to the Medicare Payment Advisory Commission, MedPAC, many Medicare beneficiaries rely on for important health care management.

Again, we are scheduled to adjourn in 7 days. It is time to resolve this issue so that our physicians know they are going to be able to continue to care for Medicare patients come January.

This is not a new issue. MedPAC considers the Medicare SGR formula a flawed, inequitable mechanism for controlling the volume of services and first recommended repeal of the Medicare SGR formula in 2001. Since then, they have consistently recommended repealing the formula. I have, in fact, put forward a bill that would do that and set up a physicians commission to recommend what should be done. We don't have time for that between now and the end of the year, but we do have time to do what needs to be done in the next 7 days, which is to stop the cut that is scheduled to take effect in January. We need to stop that, and instead of a freeze that was given last year, we need to give a modest update for our physicians so they will know that we understand how important their services are to seniors and people with disabilities.

In conclusion, I wish to share a couple of letters I have received. I have received so many letters from physicians around Michigan expressing grave concern. These are people who care very much about the people they serve. They are trying to keep it together so they can continue to serve people, whether it is in Detroit, Lancing, or Grand Rapids, up north, in the upper peninsula.

I received a letter from a physician in Cheboygan, MI, which is a small town on the lower tip of the northern peninsula. Timothy M. Burandt, D.O. in surgery, wrote me a letter that says:

In 1982, I graduated from medical school and took an oath to care for all patients in need. As a general surgeon practicing in rural northern Michigan, I am committed to caring for all of my neighbors, not just those with insurance.

My expenses keep going up as I also have a responsibility to my staff to support them with fair wages and benefits.

Without adequate reimbursement, I cannot continue to offer my services to everyone who walks through my door. There simply aren't enough resources. Please don't force me to choose which patients I should care for. I would rather retire early and close the practice.

I don't want Dr. Burandt to have to close his practice in Cheboygan, MI. The families in Cheboygan, MI, cannot afford for him to close his practice, and there is no excuse for us not to act so he doesn't have to.

Also, Tara Eding, a doctor of internal medicine in Hamilton, MI, writes:

It will be very difficult to remain in practice as internist. The majority of my practice (including 3 other partners) is made up of Medicare patients. It is already difficult to maintain a primary care practice in this field. We have recently had to ''trim'' overhead by cutting staff, restricting our services, etc. and I only see things getting worse. If these cuts are made it will drive us out of practice.

I have already stopped accepting new Medicare patients and if these cuts go through I will not have a choice. I will be forced to stop participating in one way or another. We would not be able to keep our practice open as it exists today.

There is a sense of urgency in these letters. There is a sense of urgency that we need to feel on the floor of the Senate. We have 80 people in this body on both sides of the aisle who have called on our leaders to act. We have a sound policy, we have a sense of urgency, and we have time to get this done in the next few days.

UNANIMOUS CONSENT REQUEST—S. 1547

Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 1574, a bill to provide for a minimum update for physician services under Medicare, and that the Senate proceed to its immediate consideration; that the amendment at the desk to strike the language pertaining to an update for 2006 be considered and agreed to; that the bill, as amended, be read three times, passed, and the motion to reconsider be laid upon the table, without intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection? The Senator from Idaho.

Mr. CRAIG. It is necessary that we object. The Senator from Michigan makes a tremendously valuable point. I hope the Senate does the right thing after we come back from the recess for the elections in November to deal with this critical issue which deals with our doctors and Medicare, but at this moment in time, I have to object to proceeding.

The ACTING PRESIDENT pro tempore. Objection is heard.

The minority time for morning business has expired.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

HONORING THE GOLD STAR AND BLUE STAR MOTHERS

Mr. ALLARD. Mr. President, 70 years ago, Congress passed a resolution proclaiming that the last Sunday in September be designated as Gold Star Mother's Day. As we approach the last Sunday in September, I would like to take this opportunity to recognize the Gold Star mothers throughout the country and particularly those in the State of Colorado.

I hope we will all take time this Sunday, September 24, to honor these mothers and fathers who have so bravely endured the loss of a son or daughter killed while serving in the Armed Forces. Colorado has lost many young men and women to combat since the horrendous attacks of 9/11. One day is not long enough for us to ever fully honor these parents who have had to suffer the unmanageable pain of losing a child, but we will try.

Across the State of Colorado and across the Nation, many of these mothers have come together not only for support but also to volunteer their time, serving veterans and families of soldiers, encouraging patriotism and national pride, and honor their children through service and allegiance to the United States. Through their volunteer efforts, they keep alive the memory and spirit of those whose lives were lost in the war. They continue to inspire compassion, strength, and faithfulness for all Americans.

To mark this weekend, the Blue Star mothers of Colorado will be hosting Colorado's first annual Gold Star Mother's Day weekend. There will be several events throughout the weekend celebrating the lives of those soldiers who so courageously gave the ultimate sacrifice for their Nation. Unfortunately, I will not be able to attend the ceremony myself, but my wife Joan and I send our thoughts and prayers to those who will be attending the event.

Words truly cannot express America's gratitude for our Armed Forces and their service and sacrifice to this Nation. Those who have fallen serve a cause greater than themselves and deserve special honor. To their mothers and fathers: You, too, deserve special honor as you continue to carry on the patriotic duties and legacy your sons and daughters sadly could not. I thank you for your courage and for your service to the United States of America.

Over the last 3 years, our Nation has been locked in a terrible struggle against radical extremists across the Middle East. I readily admit this fight is one we did not anticipate. But I do know that every life given in the name of freedom has not been given in vain.

While they continually experience many dangerous challenges, our men and women of our Armed Forces continue making strides in Iraq and Afghanistan. We have fought a terrible enemy that has no regard for human life. Yet despite our challenges, we have seen tremendous progress, especially toward helping to create partners in our fight against terrorism

worldwide. Indeed, much of our success depends on the men and women in the new democratic governments formed in Iraq and Afghanistan, and they are stepping up to the challenge. In Iraq, people from all walks of life—Sunnis, Shias, Kurds—have participated in multiple elections and referendums across the country for the first time in Iraq's history.

Remarkably, after democratic elections in Afghanistan, women are holding positions of power in local and national governments, something that was impossible under the Taliban's rule. The sovereign governments are working with regional and international partners in achieving united democracies—an achievement only allowed through our fighting men and women in combat.

Many remarkable achievements have been made through the sacrifices of the men and women in the military, but perhaps the most important of all is what has not occurred in our country: since we took military action against these Islamic extremists and brought the fight to them, we have not seen an attack on American soil. The sacrifices that the sons and daughters of our Gold Star mothers have made and continue to make are protecting us on our shores. Unfortunately, we have seen that even after the death of terrorist leaders, such as Abu Mus'ab al-Zarqawi, the forces of Islamic extremists vow that they will continue to wage war on American civilians. Our success against this type of enemy is only ensured by the brave men and women of our Armed Forces. They provide safety and security to our Nation, and we are truly grateful for what they have done.

While the cost has been high, the cost of doing nothing would be even greater. These words provide little comfort to the families who have lost loved ones, but we will always remember those who have lost their lives in support of our freedom and thank them for their sacrifice.

I ask unanimous consent that a list of fallen heroes from Colorado be printed in the RECORD.

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

Pfc. Travis W. Anderson
Pfc. Shawn M. Atkins
Staff Sgt. Daniel A. Bader
Sgt. Douglas E. Bascom
Sgt. Thomas F. Broomhead
Petty Officer 2nd Class Danny P. Dietz
Lance Cpl. Mark E. Engel
Staff Sgt. Christopher M. Falkel
Pfc. George R. Geer
Lance Cpl. Evenor C. Herrera
Cpl. Benjamin D. Hoeffner
Staff Sgt. Theodore S. Holder II
Maj. Douglas A. La Bouff
Staff Sgt. Mark A. Lawton
Spec. Derrick J. Lutters
Pfc. Tyler R. MacKenzie
Lance Cpl. Chad B. Maynard
Sgt. Dimitri Muscat.
Sgt. Larry W. Pankey Jr.
Staff Sgt. Michael C. Parrott
Pfc. Chance R. Phelps
Pfc. Ryan E. Reed
Sgt. 1st Class Randall S. Rehn
Staff Sgt. Gavin B. Reinke
Sgt. Luis R. Reyes
Pfc. Andrew G. Riedel
Capt. Russell B. Rippetoe
Pfc. Henry C. Risner
Sgt. 1st Class Daniel A. Romero
Lance Cpl. Gregory P. Rund
Staff Sgt. Barry Sanford
Staff Sgt. Michael B. Shackelford
Cpl. Christopher F. Sitton
Lance Cpl. Thomas J. Slocum
Lance Cpl. Jeremy P. Tamburello
Staff Sgt. Justin L. Vasquez
2nd Lt. John S. Vaughan
Capt. Ian P . Weikel
Spec. Dana N. Wilson
Sgt. Michael E. Yashinski

Mr. ALLARD. Mr. President, in remembering their lives, we also honor and celebrate the joy they brought to their families. To the Gold Star and Blue Star mothers and fathers: I salute you and thank you for your service to this Nation.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Idaho.

Mr. CRAIG. Mr. President, how much time remains in morning business for our side?

The ACTING PRESIDENT pro tempore. There is 9 minutes 20 seconds remaining.

Mr. CRAIG. Mr. President, first, I wish to recognize the Senator from Colorado for the speech he has just delivered. As chairman of the Veterans' Affairs Committee, Gold Star mothers are always at our committee working with us to ensure that those who survived and are America's veterans are treated fairly and justly and the benefits they have been provided by law are delivered to them.

I thank the Senator from Colorado for his recognition of these phenomenal mothers and fathers who have borne the ultimate sacrifice of losing one of their loved ones, one of their children in pursuit of our freedom and justice around the world.

Mr. ALLARD. Mr. President, I thank the Senator from Idaho. We truly appreciate his leadership on the Veterans' Affairs Committee. He is doing a great job.

Mr. CRAIG. I thank the Senator.

DRILLING FOR AMERICA'S OIL

Mr. CRAIG. Mr. President, I come to the floor today to talk to our colleagues about something going on in America at this very moment that probably is very pleasing to the average consumer. I came to the floor of the Senate over a month ago to deliver a speech using this map. I called it the ''No-Zone Speech.'' I called it the ''No-Zone Speech'' because all of these red areas around our Nation, off our shores, in the Outer Continental Shelf, are no-zones to oil exploration and development. Why? Because we have said politically we don't want to go there. Yet it is believed by the U.S. Geological Survey that in the no-zone rests maybe 80 billion or 90 billion barrels of oil.

I gave that speech in late July of this year at a time when we were debating a very small area down here that could supply upwards of 3 billion or 4 billion barrels of oil, known as lease sale 181. The Senate finally got it, worked out their differences, and passed that legislation. They are now working with the House to try to resolve those differences.

But something phenomenal has happened at the gas pump. During the time I delivered that speech, the Senate was working on lease sale 181, and American consumers were paying over $3 a gallon for their gas. What happened? If you went to the pump yesterday in certain parts of our country, you paid less than $2 a gallon, and in my State of Idaho you are paying 30 cents or 40 cents less a gallon than you did in late July or early August. What happened?

Let me tell my colleagues what we think happened. It is about the very reality of America developing its oil reserves and becoming less dependent upon foreign, unstable sources.

About a month ago, Chevron announced they had discovered in the gulf in what is known as deepwater areas 20,000 feet below the ocean's surface, and 8,000 feet below the ocean's floor, possibly one of the largest oil find discoveries in the history of the United States. That announcement, coupled with the fact that there had been no hurricanes in this area, coupled with the fact that all of the oil development and refinement that was taken off line by Katrina is now back on line and operating, and the reality that there was a new reserve of oil that was secure to our Nation and not dependent upon a foreign unstable political power, changed the dynamics of the oil market.

The $70-plus a barrel for crude that refiners were paying in late July was always believed by many of us who study the market to have $20 of the $70 as purely risk money and speculative price. That is gone. That is gone because of this very large discovery down in the gulf and the reality that the Congress is going to act responsibly for the first time and allow some development, some exploration in the no-zone.

To think we could become increasingly independent of unstable foreign sources of oil would be phenomenally important for this country and our economy and, most importantly, for the consumer. I am quite sure that the person who pulls up to the gas pump in Mid City USA today and is paying 20, 30, 40, 50, 60, 80 cents to a dollar less than they paid a month ago is a pretty happy person, and they ought to be. But, more importantly, they ought to be recognizing what they should be asking the Congress of the United States to do, and that is to advance the development of drilling in the no-zone.

The Presiding Officer is a Senator from Alaska. She and I and others have worked for years to develop the rest of the oil reserves in Alaska in the ANWR

area, where there could be 30 billion or 40 billion barrels of oil, but America's politics has said no, and America's consumers have suffered. Then we work our way down the coast, down through California and all the other areas where the politics of those areas say, no, you can't drill here, and yet we believe there are trillions of cubic feet of gas and potentially billions of barrels of oil.

I have worked on the Energy Committee of the Senate since 1990. I have watched as others have worked with me and watched American consumers and the oil industry of our country becoming increasingly dependent on foreign sources. In 1990, it was about 40 percent dependency, and then 42 and then 45 and then 50 and then 55 and then 60. At the peak of this summer's consumption, upwards of maybe 65 percent of our oil was coming from those unstable political regions of the world where, at any moment, a terrorist attack or the bombing of a ship could spike the oil market because the supply would diminish, and that is why we saw $70 a barrel for oil in speculative prices.

At just the moment when we are doing lease sale 181, the new discovery happens in the gulf, and the market recognizes that $20 worth of speculation on risk goes away, and American consumers are beginning to recognize the value of being less dependent on foreign oil.

A very wise admiral a long time ago fought a very important battle with the politics of America and the politics of an old-style Navy, and his name was Rickover. He said: As long as our surface and subsurface Navy is dependent upon refueling with diesel fuel all over the world, we will not be free and independent. The politics of that was very rigorous. In 1982, Admiral Rickover delivered a speech before Columbia University where he talked about the battles he fought to develop the first Nautilus nuclear-powered submarine. He said that the political battle to get the submarine was more difficult than the design of the submarine itself.

Well, that was then, and that was many years ago, and most of us have forgotten that political battle because what we now know is that most of our Navy, both subsurface and surface, is nuclear powered. From the time the new nuclear Navy vessel is built, slides from the drydock into the water, and begins its mission around the world, it is never refueled.

The PRESIDING OFFICER (Ms. MURKOWSKI). The majority's time has expired.

Mr. CRAIG. Madam President, I ask unanimous consent to continue for 5 additional minutes as in morning business.

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

Mr. CRAIG. So that Navy vessel never has to pull into a port anywhere in the world to refuel itself. It is totally independent. It can travel the world. It can go into the Indian Ocean where it would be very difficult to refuel a diesel-powered vessel, and it sails on. That is why we are the dominant naval power of the world today, because of the vision of a man years ago who said: We must be independent—independent of energy sources for our Navy.

Why can't America demand energy independence for all of us? Can you imagine what would happen in our economy today if the hundreds of billions of dollars that are paid for oil from Iraq, from Kuwait, from Venezuela, and other unstable political areas of the world simply didn't have to be paid? Instead we would pay producers in our country for developing the resources that our country still has in the no-zone. Can you imagine our strength as a country? Can you imagine our foreign policy if we didn't have to recognize that we had to work to keep certain areas of the world stable because they are a source of our energy, they are a source of our very heartbeat as a country? They are the very source of the heartbeat of the economy of our country.

The recent discovery in the deep waters of the gulf proved the point and proved it loudly, and the markets reacted, and the consumers are benefiting today.

This President gets it. He understands it. It is why his first task as a President when he came to power was to develop an energy task force and to lay out for the Nation a national energy strategy that would move us toward energy independence. Oh, the gnashing of teeth, the ringing of hands that occurred on the floor of the Senate: We dare not drill in ANWR. We dare not go here. We must not do this.

During the course of all that rhetoric we became increasingly dependent upon unstable political areas of the world for our oil. And the American consumers began to pay the price a couple of years ago when gas went above $2 and then $2.10 and then 50 cents more and then $2.80 and, of course, this summer over $3 a gallon.

America's farmers today are now paying $3.20 to $3.50 a gallon for diesel, and they can't control their input costs. Many of them are finding themselves in financial difficulty because of the cost of diesel or the cost of fertilizer because, of course, it takes natural gas to produce fertilizer and nitrogen and phosphates.

America, wake up. America, get on your phone and call your Congressman and call your Senator and say: No more no-zone. Allow us to develop our resources and to do so in an environmentally sound way because we now have the technology. We proved it in the shallow waters of the gulf a decade ago. We are now proving it in the deep waters of the gulf as we speak.

Clearly, America could be energy independent. There is no question about it. The ability of the farmer to produce corn that is developed into ethanol, the ability of our country to drill in the no-zone says that America could once again stand unafraid around the world as it relates to the political stability of the oil development and the oil-producing regions of a very unstable world.

The reason we are dependent today is politics, plain and simple. The reason the Senator from Alaska continually argues for the responsible and environmentally sound development up here in the northern reaches of Alaska is because we can do it and do it right, and there are billions of barrels of oil up there and trillions of cubic feet of gas. And America, once again, as Admiral Rickover understood decades ago, can be independent as she stands for other causes around the world.

What a difference a day makes. What a difference one oil find makes because that new Chevron oil find and that new trend in deep water may well increase our oil reserves by 25, 30, 40, 50 percent. What would happen if we were doing the rest of the development in this area, if we were doing the gas development up through Virginia and along the east coast, if we were developing offshore in California, if we were developing in the ANWR in Alaska?

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

Mr. CRAIG. Madam President, the reality is very simple and very obvious. It is all at the pump, and the American consumer, I hope, has awakened to the reality of what a difference a day makes in the price of gas and the impact on their family budget and their pocketbooks. Let's drill and develop the no-zones.

Madam President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

SECURE FENCE ACT OF 2006—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 6061, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to H.R. 6061, an act to establish operational control over the international land and maritime borders of the United States.

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

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

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

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

EMERGENCY FARM RELIEF ACT OF 2006

Mr. CONRAD. Madam President, I rise today to speak briefly about the legislation I introduced earlier this month, the Emergency Farm Relief Act of 2006. This bipartisan legislation now has 22 cosponsors in the Senate. As I have indicated, it is fully bipartisan. We have a strong representation from both parties in the cosponsorship of the legislation. It is designed to provide much needed relief to producers who have suffered from natural disasters in 2005 and 2006.

Let me direct the attention of my colleagues to the headlines from across my State last year. These headlines talk of massive flooding. In fact, last year in North Dakota, over 1 million acres could not be planted at all. Hundreds of thousands of additional acres were planted and then drowned out.

''Heavy Rain Leads to Crop Diseases.''

''Crops, Hay, Lost to Flooding.''

''Area Farmers Battle Flooding, Disease.''

''Rain Halts Harvest.''

''ND Anthrax Outbreak Grows.''

These were the headlines all across my State.

''ND Receives Major Disaster Declaration.''

While we recognize that in 2005 the worst disasters were in the gulf—Hurricane Rita and Hurricane Katrina—there was another part of the country hit by disaster, little noticed, and that is my part of the country.

Last year, every county was declared a disaster by the Secretary of Agriculture. This is what we saw last year: massive flooding all across North Dakota, especially eastern North Dakota. In fact, at one point I went up in a plane and flew over southeastern North Dakota, and from horizon to horizon, all I saw was water. It was extraordinary, the worst cross-land flooding we have suffered perhaps in our history. It got virtually no attention except by those who experienced it. As I indicated, there were a million acres that were prevented from even being planted. They couldn't plant. They couldn't get in the field even to plant. We suffered an extraordinarily serious disaster last year.

Now, irony of ironies, this year we are suffering from drought. The scientists tell us this is the third worst drought in our Nation's history. This drought extends right now through the center of the country.

This is from what is called the U.S. Drought Monitor. It is a scientific evaluation of drought conditions in the country. It goes from abnormally dry to exceptional drought. The dark brown is exceptional drought. That is the most severe category. You can see the epicenter of this drought is right in North Dakota and South Dakota. Now the entire State of North Dakota is considered in drought condition. In our State, it goes from severe to exceptional drought. We don't have just abnormally dry or moderate; we are severe to exceptional drought in every part of our State.

This is the headline from the Grand Forks Herald in July of this year:

''Dakotas Epicenter of Drought-Stricken Nation.''

Experts say the dry spell is the third worst on record. In our entire history, this is the third worst drought, only eclipsed by the 1930s and an earlier period.

In July, Senator DORGAN, Congressman POMEROY and I, our Governor, and the agriculture commissioner of North Dakota went on a drought tour. This is what we found. This is a pasture in Grant County. It is virtually worthless for grazing. I could show picture after picture of what we saw.

One of the most amazing things we found was a corn crop that was irrigated—irrigated corn, and the kernels had not formed. Why? Because not only have we had drought but we have had extreme heat. These are the temperatures for the month of July in North Dakota. All of those in orange are over 90 degrees, many of them over 100 degrees. You can see in the second week of July: 96, 101, 105, 94, 101, 105. But the real tale is told on July 30, when in my hometown it reached 112 degrees. That is why even irrigated corn did not produce.

Here is a picture from a Burleigh County cornfield. This is corn in the southern part of Burleigh County, which is my home county. You can see there is virtually nothing growing. It is like a moonscape. These are the conditions we faced all across North Dakota.

It is true that there are some places that had good crops, if you just had the right mix of weather conditions, even though there was drought. Perhaps they had irrigation or for some other reason they had a good crop, but much of North Dakota has been devastated. I am told by the bankers of our State that if we do not get help, 5 percent to 10 percent of the producers in North Dakota will be forced off the land. That is how severe this crisis has become.

During the August recess, I organized a drought rally in Bismarck, ND. Hundreds of farmers and ranchers came from all across the State. Our Governor attended, as did Senator DORGAN and Congressman POMEROY and our agricultural commissioner. The message was loud and clear: If there is not assistance that is meaningful, if it does not come soon, thousands of farm families are going to lose their livelihood. That is the reality of what we confront.

In late August, the Secretary of Agriculture traveled to South Dakota. He proposed there a program that is totally and completely inadequate. The program he proposed is mostly money that is already in the budget. It is not new money, just a shuffling of the deck.

On September 12, the Secretary notified me that all North Dakota counties had been designated as primary disaster counties for the 2006 crop year. Why aren't we satisfied? Because all that makes available are low-interest loans. This crisis is so severe that more loans are just going to drive people deeper into debt and are going to further pressure them off the land.

On September 12, when the Secretary notified me that all North Dakota counties had been designated as disaster counties, it was also the day I was joined by hundreds of farmers from across the country, dozens of Senators—colleagues from the House and Senate—at a press conference only a few yards from here. Thirty-four national farm organizations have announced that they are asking Congress to provide this disaster relief which is contained in my legislation; 34 national organizations have united behind my legislation.

So the question before the Congress of the United States is, Will we act and will we act in time? I pray that this Congress will act, and I pray we will act in time. If we fail, thousands of farm families will be forced off the land and will lose their livelihoods. That is the reality we confront. That is why Senator NELSON and I have come to the floor today. All I can do is ask colleagues to remember that when the Gulf States suffered horrendous disasters in Hurricane Karina and Hurricane Rita, all of us came to help. We are asking for that same consideration now, as the center of the country suffers from truly a devastating drought.

I will yield the floor, but before I do so, if I could just say to my colleague, Senator NELSON, I thank him for his leadership, as he has repeatedly pressed for this assistance to pass. I think we should say for the record that this assistance has passed in the Senate twice already, by overwhelming margins. In fact, there was an attempt to take it out of one of the supplemental appropriations bills and 72 Senators voted for it. Seventy-two Senators voted to keep it in. So there is strong bipartisan support in the Senate.

Our problem has been that the President has issued a veto threat, and the House of Representatives so far has upheld that veto threat by refusing to consider the Senate legislation. We believe we should give them one more chance because now this drought disaster has deepened and been joined by, of course, the effects of Hurricane Ernesto, which did enormous damage in North Carolina and Virginia, right up to Maryland.

Now is the time. People need help. They deserve it. This disaster assistance will only give help if people have suffered a loss of at least 35 percent. This doesn't make them whole. They would still suffer enormous losses. But at least it would give them a fair, fighting chance.

I want to repeat, you only get help under this legislation if you have suffered a loss of at least 35 percent. It is not too much to ask that we provide

this kind of assistance to those who have suffered natural disaster. This is not regional legislation, it is national legislation. Anyone, anywhere, who has suffered a loss of at least 35 percent would be eligible for some assistance.

Again I acknowledge the leadership of my colleague from Nebraska who has been so persistent and so determined to get help to our producers.

I yield the floor.

Mr. NELSON of Nebraska. Madam President, I ask unanimous consent to speak as if in morning business about S. 385, the Emergency Farm Relief Act of 2006.

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

Mr. NELSON of Nebraska. Madam President, I thank my colleague from North Dakota for his support and for his continuing interest and efforts to bring this to a conclusion.

I came to the floor last week as well in an attempt to provide much needed emergency relief to our Nation's farmers, ranchers, and rural small businesses that have been devastated by the long running drought that I have nicknamed Drought David. Some have asked why did I give it a name. A drought, unlike a hurricane or a flood, is a slow-moving disaster that can linger over the course of years. In some places, Drought David is celebrating its fifth birthday, and in other places it is celebrating its seventh birthday. But by giving it some identity, we hope we can give it the same kind of identity that is very often given to a hurricane which is named. It is not just a storm—it is Hurricane Ernesto or Katrina. I felt that giving this continuing drought a name would help give an identity so people could focus on this being a natural disaster, a devastation of major economic proportions to large areas within our country that can have the same impact in terms of economic loss which very often a hurricane will cause in its wake.

At this time, I ask a simple question of the Senate: If not now, when? When will this Senate provide the relief needed by our Nation's farmers and ranchers? Unfortunately, my question was answered last week by the procedural tactics to block an up-or-down vote.

So, today, I have two questions to ask my colleagues: If not now, when? And, most importantly, if not now, why? Why do we refuse to provide relief to farmers and ranchers suffering from this particular natural disaster when we provide relief, as we should, to others for natural disasters like hurricanes? Is relief from the Senate seriously based solely upon the sensational nature of the disaster and the news reports of the disaster? If a Drought David were able to grab the headlines like a hurricane, would relief be constantly and consistently blocked?

That is not acceptable to the farmers and ranchers I know, and it is not acceptable to me—and I am sure it is not acceptable to a majority of my colleagues in the Senate.

As Senator CONRAD has pointed out, at least on two occasions, we have already voted to provide this kind of relief, and now procedurally it is being blocked.

Last week, I told the Senate about the damage this drought has caused to farmers and ranchers in Nebraska. As my colleague has indicated, in the State of North Dakota, the damage is considerable.

I told the Senate last week about how the drought has caused $342 million in damage so far this year for Nebraska alone.

Keep in mind this is in many cases 5 or 7 years old. The multiples are pretty clearly tremendously important to the State of Nebraska. Still the Senate has refused to act.

Last week, I talked about how the drought forced farmers in Nebraska to spend an extra $51 million just for irrigation costs during this summer. Still, the Senate refused to act.

Last week, I talked about how just this year the drought has cost Nebraska farmers $98 million in crop losses and $193 million in livestock production losses. And still, the Senate refused to act.

Senator CONRAD and I and many of our colleagues have put together a comprehensive package to provide emergency funding to farmers and ranchers who suffered weather-related production shortfalls, quality losses, and damage to livestock and feed supplies. Our bill also helps farmers overcome the losses they suffered because of energy price spikes after the hurricane last year.

I warn my colleagues again that the devastating impacts of the drought threaten to drive many of our farmers and ranchers out of business. We no longer can expect family farmers to make a go of it day in and day out with these ongoing losses. People have said that maybe the Crop Insurance Program would be able to provide the kind of assistance that is required. No crop insurance program can ever provide year in and year out for a 5-year or a 7-year period of losses. It is not designed to do that, and it is not priced to do that. It is not equipped to do that, and actuarially it simply won't work. It would be the equivalent of insuring your house, and every year for 5 years the house burned. You rebuild it, it burns; you rebuild it, it burns. No insurance program is designed nor will it function to take care of that kind of loss.

Without our farmers and ranchers, we cannot expect to continue to secure our national food supply. And without our farmers and ranchers, we cannot hope to grow our domestic production of alternative renewable fuels.

Again I ask, if not now, when? If we fail to act and by our inaction we allow farmers and ranchers and rural businesses to dry up under the devastating impact of the drought, then we have failed not only those farmers and ranchers and small businesses, but we have also failed our Nation because we will have failed to ensure our food and fuel security.

This is why I ask my second question: If not now, why? I think our farmers and ranchers deserve more than procedural gimmicks. They at least deserve answers from this body about why they will not get the relief they so desperately need.

I have spoken to my friend and colleague, Senator HARRY REID, and he has informed me that no one on the Democratic side of the Senate is going to block or will block an up-or-down vote on this relief.

I hope today as we ask this question for the consideration of this body we will make a bipartisan effort to bring about relief to these parts of the country that are undergoing such devastating losses.

I ask again, if not now, why? Surely the Senate can spare an hour of its day to consider this issue and certainly to vote for farmers and ranchers and rural businesses that help this Nation and the world and of whom we are asking to provide more and more of our Nation's fuel supply as well. Surely, we can find some time to vote for providing them the relief they need. I think they deserve at least that much.

That is why I am prepared to continue to fight for this relief and continue to work to get relief out to our farmers.

I know my colleague and others are also joining in that. One way or the other, I will work to get this done. If nothing else, I am going to continue to fight to get this emergency relief included in any continuing resolution that Congress will have to pass before it leaves in a week.

I ask my colleague from North Dakota if he needs to have any more time yielded to him.

UNANIMOUS-CONSENT REQUEST—S. 3855

If not, I ask unanimous consent that the Agriculture Committee be discharged from further consideration of S. 3855, the emergency drought assistance bill, and that the Senate then proceed to its immediate consideration, the bill be read a third time, and without further intervening action or debate the Senate proceed to vote on passage of this bill.

The PRESIDING OFFICER. On behalf of the Senator from Alaska, I will object. Objection is heard.

Mr. CONRAD. Madam President, I know that the occupant of the Chair is acting as a representative of her party, whatever her particular position might be. I want to lay it out on the record because I know the Chair can't explain her own position. She is precluded by the rules from doing that. We don't hold the Chair personally responsible in any way for this objection. We understand that she is required to do so. Any occupant of the chair would be so required. It is probably important to put that on the record.

Madam President, we deeply regret that there has been objection raised.

We deeply regret that we are not given the chance to pass legislation which has already passed this body twice before but that has been blocked because the President has threatened a veto and the House has so far gone along with his threat.

Again, the Senate has acted twice in overwhelming numbers to pass drought relief. Goodness knows it is needed.

I was home just this last weekend. I was all across the northern tier of North Dakota. In every location, farmers came to me, ranchers came to me, and said: KENT, is there not an understanding in Washington what is happening here? Does no one care? If there is no response and if it does not come soon, thousands of us are going to be gone.

One of the most prominent bankers in my State, I say to my colleague from Nebraska, came to me this weekend and said: KENT, if there is not disaster relief, 10 percent of the farmers in my portfolio are going to be out of business. They will not get financing. They will not even get financing to go into the fields next year.

One of the farmers said to me: It has been 5 years since I had a normal crop.

Between this extraordinary flooding, these extraordinary droughts—and I don't pretend to know whether global warming or global climate change is part of this. What I do know is something is happening that is absolutely extraordinary in our part of the country. We have gone from massive flooding to massive drought this year. Flooding and drought of that proportion has never been seen before in my State—or at least rarely seen. On the drought monitor, they say this is the third worst drought in our Nation's history.

We need to act. We are not asking to make people whole. They will not be made whole by our disaster relief bill. They only get help if they have at least a 35-percent loss. Then the help only comes to the losses over that amount.

We are not asking to make people whole. We are not asking that people have some big windfall. We are asking that people be given a fair fighting chance.

That has been denied today. But today is not the end of the story. We are going to come back. Again, we want to acknowledge this body has twice overwhelmingly passed disaster assistance. We appreciate that. Our problem is not in this body. Very frankly, our problem is in the other body and at the White House. That is where our problem lies.

I again want to thank very much my colleague from Nebraska for his steadfast leadership on this issue. That is so important to the people we represent.

Mr. NELSON of Nebraska. Madam President, let me also acknowledge that the objection entered was not a personal objection by the Senator from Alaska but one procedurally required of her in her capacity.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Madam President, I ask unanimous consent to speak for up to 20 minutes as if in morning business.

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

Ms. LANDRIEU. Thank you, Madam President.

ENERGY INDEPENDENCE

Ms. LANDRIEU. Madam President, I come to the floor to speak about an equally important issue to many of our States and follow up on the earlier comment by my colleague from Idaho on energy independence for the Nation, and the importance of that at this particular time to the Gulf of Mexico, America's only energy coast and an area that I need not have to explain again is in one of the most challenging situations of its entire history.

I want to associate myself with the remarks of the Senators from Nebraska and North Dakota regarding the drought.

We have had similar droughts, amazingly, in our State, even with the hurricanes. But as Senators who represent farm State communities, agriculture is very important to the State of Louisiana. We have been in a situation that they have been in. I know people think of us as a State with a lot of rain, and obviously a target for hurricanes, but we have also been stricken by serious drought.

The point of my comment about what was said is this: Sometimes things happen out of the ordinary, extraordinary situations, as they have just described, which deserve an unprecedented and extraordinary response.

I know we in Washington deal with that very well because we like everything that is sort of in the box, but we also don't like everything to kind of be one way. The fact is, when serious, extraordinary circumstances happen, we need to make a quick and appropriate response. It is most certainly appropriate for these Senators to come to the Senate and ask for a quick and immediate response to part of our Nation. This drought is not just, of course, in Nebraska and North Dakota. The pictures have shown pockets of severe and unprecedented drought, and whether it is because of global warming or whether it is just because of the severe weather patterns caused by something else, we can debate that until the cows come home. The fact is we have farming communities, rural communities, suffering right now. They need our best effort. I support seeing what we can do to help.

NATURAL GAS IN THE GULF OF MEXICO

I will speak this morning for a few moments about an issue which is almost equal to the concern of farmers in America; that is, the price of natural gas. Farmers, like many industry groups, use natural gas. In their case, fertilizers are produced using a lot of natural gas, and fertilizers go into the farmers' fields.

Natural gas is also used as a raw material to create virtually 50 percent of the products created in American gas. And we have a great shortage. It is driving the price high, historically high—not the highest it has ever been but historically high prices.

The only way we can get the price of gas down—and we need to; that is what the Senator from Idaho spoke about, energy independence and stabilizing prices—is to increase the supply and to make the supply sources more diverse so industries, if the price of gas is high, can use coal, or if the price of coal is high, they can use oil, or if the price of oil is high, they can use alternative fuels or ethanol.

We have been in a mad dash against time to expand our source of fuels and to increase the supply, where we can, in the most environmentally sensitive way possible. It has been a debate which has gone on for decades. It will continue to go on for decades because some States produce gas, some produce oil, some produce coal, and some do not produce any of that and have nuclear powerplants and think that is the way to go. Some of us have more wind than others, some of us have more sun than others.

This is a debate which is natural in a democracy. Just because it is difficult does not mean we have to stop trying. We have to press forward on the issue of a greater supply and greater independence for America. We are dangerously dependent on foreign sources of oil and gas.

Madam President, 72 Senators—unprecedented in this day of partisanship, in this day of not even being able to agree on the time of day or the weather conditions outside—72 Senators came together under the leadership of Senator DOMENICI, the chairman of our Energy and Natural Resources Committee. The Presiding Officer serves on that committee and has been a wonderful voice of reason for the Senate. We passed a bill to open more supplies of gas in the Gulf of Mexico.

The Senator from Idaho showed a much larger and more colorful chart. I thought his looked terrific, and I will ask to borrow it one day, but I do not have it at this moment and this chart will suffice. It shows areas that are basically off of production. The white areas off the Atlantic coast, the coast of California, and around Florida have not been open to production for the last 35 years. There are many reasons—some of them good and some of them not good—we can't drill in these areas.

We will continue to debate for decades to come what to do off the shores of Washington, Oregon, California, Florida, Georgia, South Carolina, North Carolina, Virginia, New Jersey, Connecticut, Massachusetts, New Hampshire, Vermont, and Maine. That debate will go on for the next many years. I will be on one side of that debate, and my colleagues will be on the other. I believe you can access resources appropriately. However, we are

not going to resolve that issue in the next week. We are not going to resolve that issue in the next month. I predict we will not resolve that issue for the next year. However, we have farmers in the Dakotas, Nebraska, Louisiana, Texas, Mississippi, Alabama, and Kansas who are desperate for gas now. They cannot wait 10 years or three decades until we figure out the politics of drilling on the Atlantic and Pacific coast. They need help now.

For Congress to be able to help them and not help them is a crime. For Congress to be able to help them and not help them is a crime, it is a shame. It should not stand.

We have the political support and the votes now—among Democrats and Republicans in the House and the Senate, today—to open more drilling in the Gulf of Mexico. We have not been able to open sections in the gulf because of disagreements between Florida and Alabama for decades. Because of the good work of the Senators from Alabama, Mr. SHELBY and Mr. SESSIONS, and the good Senators from Florida, Mr. MARTINEZ and Mr. NELSON—they worked for months in the most difficult of political situations to come up with a way to open more oil and gas drilling in the Gulf of Mexico, a place that everyone agrees has tremendous reserves, that everyone agrees is where we should drill. There are no fights among Texas, Louisiana, Mississippi, and Alabama. Now Alabama and Florida have come to agreements. Their Governors have agreed. Their general political establishments have agreed—not unanimously but the vast majority.

We are here, a week until we leave, and we are going to do nothing—that is what some people say—because it is not good enough. I don't know what school of politics or leadership they came from. All I know, as a leader, you take things a step at a time. You cannot change the world in 1 day. You have to change it a little bit at a time. It takes time to educate people and to talk to them about the benefits. I have taken as many Senators as will go with me out on the rigs. I took the Secretary of the Interior out there to show him. It takes a while to take a lot of people out there. They are busy. They have other things on their minds. We are doing the best we can to try to educate people all over the country about the benefits.

We started drilling offshore in the 1940s. The first well was a little town in southwest Louisiana called Creole. It was just basically washed away in the hurricane. The brave little town, Creole, LA, put the first well offshore about four decades ago. The industry has blossomed since then.

The purple spots on this chart represent pipelines of natural gas. But the purple spots represent more than pipelines; they represent jobs, economic hope, and economic strength of the greatest Nation on Earth. Without these pipelines, without this gas, we cannot produce hardly anything in the United States of America—from plastics, to manufacturing, to steel, to electricity. We keep the lights on in North America. We are proud of it. We want to do more of it. We can do more of it.

We have a bill and the political leadership to open the gulf, but some people around the Capitol do not want to do that until we figure out the politics of drilling off the coast of California—I suggest that is going to take a little more than a few weeks—or until we figure out the politics of drilling off the Atlantic coast. I suggest that is going to take a little bit more work. I am willing to do the work. I have done a lot of the work for the last 10 years. I am continuing to do the work. It is not going to happen in the next month.

Meanwhile, our manufacturing cannot stay competitive with China. With cheap oil and cheap gas coming in from other parts of the world, they are laying off workers, unable to make long-term capital decisions because this Congress can't figure out, this leadership can't figure out how to get a bill passed that opens gas and oil in the Gulf of Mexico. It would not be opened without a bill. It can't open without a bill.

Maybe in the ''plan''—lots of things are in a plan. I have plans for my house, to decorate. That is not to say it is going to get done because there is someone else in my house—my husband—who has ideas of his own about how this works. Just because you have something in a ''plan'' doesn't mean it is going to happen. Just because MMS has these things in their plan does not mean it will happen, but it could happen with a bill that we could pass. If our bill is law, obviously it will make it happen.

I will show the picture of the gulf here. This is what the Gulf of Mexico looks like. These are active wells. The bigger picture was white spaces with no one else drilling. These are all the drills, the yellow are the leases, and these are the active wells. We are producing 30 percent of the Nation's needs from here. We are proud to do it. We will keep doing it.

There is still a lot of white space we could open. That is what we are trying to do—open a little off the Alabama shore, give Florida the buffer they have asked for. Some people do not agree with that, but we had to come to terms with the situation in Florida. Their State is divided on this issue. Some people in Florida want to drill, some people don't want to drill. This was a compromise, as is everything here, and we figured out a way to give Florida a buffer, open up some more oil and gas drilling.

The next chart shows the area we came up with after a lot of work. This lease sale that we could open opens up 9 million new acres of oil and gas. This will not solve my colleagues' problem, Senators KENT CONRAD and BEN NELSON, it will not solve their drought problem, but it will give relief to farmers everywhere when the gas prices come down and the oil and gas starts coming on line.

To put the 9 million acres in perspective—and the Presiding Officer will know this better than anyone—we have fought for 40 years over whether to open ANWR, and ANWR is 6,000 acres. And our debate for 40 years has been about whether to open 2,000 acres.

Our bill—and we have 72 Senators, Democrats and Republicans, led by Senator DOMENICI—will open 9 million acres. But some people around the Capitol don't think that is a significant step. They do not think that 9 million acres makes a difference. They just think this is nothing and we should keep working until we can get everything opened, and they are sure that will happen next year.

I will share the national membership list of the Consumer Alliance for Energy Security. There are probably 100 or more organizations, led by corporations, nonprofit organizations, agriculture, chemical, consumers, manufacturers—the list goes on. It is a very broad-based list. It is not just an industry list; it is retailers, et cetera—the national Chambers of Commerce, the Forestry Association, environmental organizations that understand this country is at great risk unless we open access, that understand we need to do it a step at a time. We are making progress, but we have to take this a step at a time. We want to take this step now.

I ask unanimous consent to have this list printed in the RECORD to indicate that this group is on the record wanting greater access on the issues I am speaking about.

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

CONSUMER ALLIANCE FOR ENERGY SECURITY

NATIONAL MEMBERSHIP LIST

Albemarle Corporation; Adhesive and Sealant Council, Inc.; Advanced Service Corporation; Agriculture Energy Alliance; Agriculture Retailers Association; Air Liquide; Air Products; Aluminum Association; American Forest & Paper Association; American Gas Association; American Fiber Manufacturers Association; American Iron and Steel Institute; American Public Gas Association; Arizona Chamber of Commerce; Arkema Inc.; Ashland Inc.; Associated Oregon Industries; Associated Oregon Loggers; Bayer Corporation; Bowater.

Carousal Promotional; CF Industries; Chemtura Corporation; China Mist Tea; Ciba Specialty Chemicals; Citation Homes; Colorado Agri-Business Association; Colorado Association of Wheat Growers; Colorado Farm Bureau; Concerned Pastors, Church of God in Christ; CoTransCo; David J. Cole & Associates; DeGreen Wealth Management Corporation; Dow Corning Corporation; DTE Energy; Duane Ankeny, Mining Co.; DuPont; Eastman Chemical; East-Lind Heat Treat, Inc.; Energy Links Incorporated.

ESAB Welding & Cutting; Executive Energy Services, LLC; Financial Energy Management, Inc.; General Equipment & Supply; Glassman & Associates; Greater Metro Denver Ministerial Alliance; Greenville Free Medical Clinic; Guardian Industries; Harnes

Homes; Hawkeye Renewable Corp.; Holmes Murphy Insurance; Industrial Energy Consumers of America; International Paper; International Sleep Products Association; Iowa Farm Bureau; Iowa Health Systems; Iowa Manufactured Housing Association; ITWC, Inc.; J & K Realty; James Insurance Solutions.

Kirk Engineering and Natural Resources, Inc; Lansing Regional Chamber of Commerce; Latco Development; Latham Hi-Tech Hybrids; Living Waters Christian Center; McAninch Corporation; MeadWestvaco Corp; Michigan Agribusiness Association; Michigan Chemistry Council; Michigan Farm Bureau; Michigan Floriculture Growers Council; Michigan Forest Products Council; Michigan Manufacturers Association; Milliken; Montana Chamber of Commerce; National Paint and Coatings Association; Nestlé Prepared Foods Company; Northwest Food Processors Association; Northwest Gas Association; Northwest Industrial Gas Users.

Oregon Association of Nurseries; Oregon Cattlemen's Association; Oregon Dairy Farmers Association; Oregon Farm Bureau; Oregon Forest Industries Council; Oregon Seed Council; Oregon Small Business Coalition; Oregon Wheat Growers League; Oregonians for Food and Shelter; PPG Industries, Inc.; Panel Components Corp.; Pellett Petroleum Co.; Piedmont Natural Gas; Pipkin Mortuary; Praxair, Inc.; Promotional Authority; Printing-Industries of America; Quad County Ethanol; Resource Supply Management; Rhodia.

Rhom and Haas Company; Rubber Manufacturers Association; SC Chamber of Commerce; SC Forestry Association; Simkins Company; Skogman Realty; South Carolina Farm Bureau Federation; South Carolina Manufacturers Alliance; Southwest Gas Corporation; Springs Global; Steele Financial Services; Sully Cooperative Exchange; Terra Industries; The Carpet and Rug Institute; The Dow Chemical Company; The ESCO Group; The Soap and Detergent Association; The Society of the Plastics Industry, Inc.; The Timken Company; Thombert, Inc; U.S. Steel; Van Diest Supply Company; West Central Cooperative.

Ms. LANDRIEU. But I want to go back to this 9 million acres. This will not open without our bill. It may be in the plan, but it is under moratoria. This section is under moratoria. It cannot be lifted with a magic wand. The only way it can be lifted is if we pass a bill to lift it. If we do not pass a bill, it will stay closed, and the oil and gas companies that have pipelines in the gulf, that have the infrastructure in the gulf, that have the expertise in the gulf will not be allowed to drill there. Meanwhile, prices go high, we lose manufacturing, everybody loses jobs in their States, and we wring our hands here saying we cannot do anything.

Well, we can do something. Chevron did something pretty big last week or 2 weeks ago. Chevron and some of its partners discovered a major oil and gas find, as shown here on the map. Look how small this is. It is just one of these little dots, just one of them. It is so tiny on the map, but it is so huge. This one discovery of Chevron called the Jack Rig—the Jack find—and several right here in the deep water of the Gulf of Mexico will double the reserves of the country's oil.

It is a significant find. It is as significant as finds in Saudi Arabia. It is surprising, in some sense, to some people who thought we drilled everything we could in America. But the fact is, Americans are a pretty smart group of people. And our partners around the world, with whom we make partnerships, can usually figure things out pretty well. With the right incentives and the right ingenuity and with necessity, we can find oil and gas in places we never thought we could.

This well is 28,000 feet deep. They found oil and gas here that is going to be a great help in the event we continue to have problems in the Mideast, if we continue to have problems in Venezuela. It does not look very promising there to me right now.

This is one small, little dot. It is probably not more than—I am not sure—maybe a couple hundred acres. So when people say to me: Senator, your bill or Senator DOMENICI's bill that opens 9 million acres does not do anything—and I look at what the Jack Rig did, which is right here—I have to tell them I don't buy their argument, and I don't think the American people do.

Opening more area in the Gulf of Mexico where the infrastructure is, where we have proven reserves—and because the information is proprietary—and you can understand why it is proprietary because this is a competitive business. All we can find out, according to the geologists who made this discovery, is that they think they have tapped into a ''fairway''—which is the way it was quoted in the newspaper—a ''fairway'' of oil and gas, ready reserves within our grasp in the area that is used for drilling, with people who know how to work on the rigs, in a political environment that is safe.

And we cannot, and will not, before we leave next week, take this step because we have to wait to open drilling all over America off the coast? I do not think that is a wise decision. I think we should take the steps now that we can take, establish revenue sharing, which is part of the bill for Texas, Louisiana, Mississippi, and Alabama and allow these States to be full and equal partners in sharing the benefits of these resources because we most certainly share the burdens of pipelines, that while we are proud of them, they most certainly have an erosion factor.

Our wetlands are being lost at an alarming rate—I have spoken about that many times—not just because of the impacts of oil and gas, which are somewhat contributory to this situation, but mostly because this mighty Mississippi River, which also serves the Nation's economy in a very significant way, has been leveed over the centuries, and it cannot overflow like it used to. So the land cannot replenish itself. And so it continues to subside. And with global warming, it is now exacerbated. But that is not the subject of this talk.

We will put our money to great use in Louisiana. Every environmentalist should be very happy to know that our money is going to be used to protect and preserve this great wetlands, which is an enormous treasure for the Nation, and one that gives so many benefits, and, most importantly, with the recent hurricane, it helps protect great cities, and not just Louisiana communities, but it also protects Mississippi. We are happy to protect our neighbors when we can.

This wetlands protects the gulf coast, and we need to get it restored for the benefit of both the States of Mississippi and Louisiana. And it creates some buffers, obviously, to Alabama, should the storm come this way. It will hit us first before hitting Mississippi or Alabama, and our wetlands reduce that surge. Having said that, we need to press on with a pro-production bill in the Gulf of Mexico, laying the foundation, as Senator DOMENICI has suggested, for revenue sharing.

Now, I would like to read into the RECORD statements that have been made by Republican Senators, not Democratic Senators, although I do have some of those I could read into the RECORD. But for the purposes of this debate, they are statements by Republican Senators who strongly support the Senate version, and why they support the Senate version, because I want to communicate that some people on the other side or some people in the Capitol and other people are saying it is just the Democrats who are stopping this broader drilling bill, and if Democrats would just get their act together, we could get it done.

Nothing could be further from the truth. There are some Democrats opposed to the broad drilling bill, but there are many Republicans here opposed to the broad drilling bill.

Let me read one of the statements. And I am sure Senator GRAHAM from South Carolina would not mind me restating his own speech on the floor of the Senate. He said, on August, 2—this is Senator LINDSEY GRAHAM, Republican from South Carolina:

> I do support passage of S. 3711, but I do not support the bill passed by the House of Representatives earlier this year. The careful compromise that is the Senate bill cannot be found in the version passed by the House. I will not support any legislation that opens South Carolina's coast to drilling for oil. . . . I . . . encourage my colleagues in the House that if they are truly serious [they will live to the framework of the Senate bill].

Now, he said ''for oil.'' He may be willing to open it for gas. I will grant you that. And the House bill allows a choice between oil and gas. But, like I said, that debate is complicated. It is multistate. It will take much longer than the week we have, much longer probably than even next year. And the need is immediate and the need is great.

I know my colleagues have come to the floor, and I asked for 20 minutes, so I am going to wrap up my remarks in about 1 minute to give others an opportunity to speak.

Let me quote from Senator MARTINEZ, a Republican Senator from Florida:

I will take a moment to thank [the House] for their diligence and vigilance. [I will thank the House Members for their good work. But at this time] I cannot support the House version. I have had clear assurances from our leaders [here in the Senate] that we are committed to working from the framework of the Senate bill. That has been important to me, and while I respect the hard work of our House colleagues [on this subject]—

And we have some great leaders in the House, both Republicans and Democrats—those are my words. He goes on to say:

and their autonomy as a body of Congress—

He says he respects that, but we must prevail in the Senate version.

Senator WARNER said:

Many of my colleagues have expressed concerns about the Gulf of Mexico bill, and they stem from what is in the House bill. They said they do not want to lift the moratorium as the House bill would do.

So even Senator WARNER, who supports drilling off the coast of Virginia and has made his position clear, understands there is still work to be done in order for that to happen.

Mr. President, in conclusion, let's not make the perfect the enemy of the good. Let's not tell our agricultural community, our manufacturing community, our utilities, our petrochemical industry to wait when we have a bill that will open 9 million acres of gas and oil, provide great companies such as Chevron and others the opportunity—both big oil and independents that create a lot of jobs—to explore more here safely off our coast.

It increases our economic strength. It produces jobs immediately. It lowers energy prices for all consumers. And it does make our Nation more secure.

I am going to close with this: I do not know how my colleagues feel about being beholden to the politics of the Mideast right now. I do not know how my colleagues feel about being beholden to the politics going on in Venezuela. I do not feel comfortable with it. I do feel comfortable about the politics of Louisiana, Mississippi, Alabama, and Texas. They are Americans. And we have our deal together. We want to drill for all Americans, for the security of our Nation.

Please, allow us to give this country more oil and gas. Please allow us to lower prices. And let's take it a step at a time. I promise my colleagues—the Senator from Pennsylvania knows very well the people in Pennsylvania need relief. I say to the Senator, they cannot wait another year or two. They need it now. He knows that well. He has been a strong advocate for his people in Pennsylvania. But we have to open this up now. And we will come back and work offshore Alaska, offshore maybe some of these other States, when their Governors and when their legislators and when their political leadership can get their neighborhoods together.

But the neighborhood of the gulf is together. Our Governors are together. Our Senators are together. And our people are together. We want to do this for America. Please let's do it.

I yield the floor.

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

ENERGY SECURITY

Mr. SANTORUM. Thank you, Mr. President. I will pick up where the Senator from Louisiana just left off, and congratulate her for her energetic support for energy security in this country. This is a huge issue. It is actually the reason I came to the floor to talk today, to talk about energy security. I am going to talk about a comprehensive approach I am introducing today, and a big part of that comprehensive approach is the passage of the legislation the Senator from Louisiana has talked about in addition to additional things she has talked about that we would like to do. If we could do them this year, great, let's try to do them this year.

Let's try to do more OCS this year. But let's get done as much as we can this year. Let's, if we can, pass the Senate bill. If there are additional provisions we can accomplish this year to—the Senator from Alaska is here behind me. The Senator from Louisiana mentioned the Commonwealth of Virginia. Let's try to get those done. Maybe there are some other things we can add, maybe in different pieces of legislation, to move this ball forward. There are conference reports that are going to be coming out, and it is not unheard of to place a little tidbit or two in a conference report. Let's sit down and have serious negotiations and discussions with the House to try to get as much as we possibly can without walking out of here empty handed.

So I would very much like to see that done. I congratulate the Senator from Louisiana, as well as all of those who have stepped forward—the chairman of the Energy Committee, obviously, Senator DOMENICI, and Senator STEVENS, who is here on the Senate floor—for all of their efforts to try to do something that I think is vitally important.

I think the Senator from Louisiana put it in the right context. The context is that we are at war with a group of people we are funding because of the high cost of energy. Let's just be very honest about it. This is a very serious war we are involved in, and we are directly contributing huge amounts of American resources to the people who would like to destroy everything we believe. That is a country that is on a mission of suicide. We need to have more energy security because that leads to better national security.

(The remarks of Mr. SANTORUM pertaining to the introduction of S. 3926 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I commend the Senator from Pennsylvania for his comments and hope more people will listen to him. He is certainly on the right track as far as this Senator is concerned.

ADVANCED TELECOMMUNICATIONS AND OPPORTUNITIES REFORM ACT

Mr. STEVENS. Mr. President, I come to the floor today to remind the Senate that the Senate Commerce Committee reported to the Senate a bipartisan bill, the Senate communications bill, and it is critical that the Senate consider this bill on the floor.

It is a bill that is good for the consumer. This bill seeks to reduce phone rates for our troops overseas. This bill makes available immediately $1 billion for our first responders. That is money that has been held in the Treasury since last December awaiting authorization for this money to be released.

This money will be used to train, coordinate, and provide interoperable equipment to those first responders. This is money they absolutely must have.

This bill creates caches of emergency communications equipment which will be located throughout our Nation, equipment that is absolutely necessary in the event of an emergency, particularly emergencies caused by terrorist activity in the future.

This bill encourages broadband deployment for consumers. We are behind the world in deployment of broadband. This bill reduces consumer cable rates, a step that is vital to assure that our people can continue to expand the use of cable in terms of communication.

This bill creates choices for consumers for both video and phone service. It is a bill to level the playing field between the various providers of communications capability for all Americans.

This bill will broaden the base for universal service. This is a concept that makes communications available to rural America which is critical, and it is critical to consider a way to make it more affordable and to make sure that the contribution required from users of our communications system is as small as possible, but at the same time meets the needs so that every American can have available communications.

I believe availability of communications is a new right for American citizens. Everyone must have the ability to learn of emergencies and have the ability to communicate.

This bill exempts the Universal Service Fund from the Antideficiency Act. That will be good for our Nation's schools and libraries that rely on universal service funding. It is necessary because of the fluctuations in the use of this fund, and it should not be considered under the Antideficiency Act.

This bill permits municipalities to provide broadband service throughout

America in both urban and rural communities. The so-called Wi-Fi concept will be expanded.

The bill expands access for the blind and hearing impaired to the voice over the Internet. VOIP is a brandnew system. It must be available to those with disabilities, as well as all other Americans.

There is wide support for the Senate communications bill. Several days ago, a letter that was signed by over 100 companies sent to our leaders was made available. These are companies involved in the manufacture, design, and construction of telecommunications networks. These 100 companies express support for our bill because it encourages broadband deployment. They support the bill's lighter regulatory approach to the concepts of net neutrality.

I ask unanimous consent that the letter be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. STEVENS. Mr. President, I want to read this. The letter is addressed to Senator BILL FRIST and Senator HARRY REID, the two leaders of our parties in the Senate. It says:

Dear Senators Frist and Reid:

As leaders in the networking and communications industries striving to produce new technologies for our nation and the world, we are pleased to support the Advanced Telecommunications and Opportunities Reform Act (H.R. 5252) as approved by the Senate Commerce Committee. It is our hope that the full Senate will approve this legislation in the very near future.

We are particularly pleased that an Internet Consumers Bill of Rights has been incorporated into this bill to address the so-called ''network neutrality'' issue. We believe this approach to net neutrality will ensure that consumers have access to the content of their choice.

We are strongly opposed to the adoption of mandated net neutrality regulation sought by large Internet content businesses for a number of reasons. First, the Internet has benefited greatly from the relative absence of regulatory restrictions, which has allowed content businesses to grow and prosper. Congress has wisely refrained from burdening this still-evolving medium with regulations, except in those cases where the need for policy action has been clear, and it can be narrowly tailored. This is not the time to deviate from this posture.

Second, it is too soon to enact network neutrality legislation. The problem that the proponents of net neutrality seek to address has not manifested itself in a way that enables us to understand it clearly. Legislation aimed at correcting a nebulous concern may have severe unintended consequences and hobble the rapidly developing new technologies and business models of the Internet. Third, enacting network neutrality ''placeholder laws'' could have the unintended effect of dissuading companies from investing in broadband networks.

We believe Congress would benefit from objective and unbiased analysis of the claims made on both sides of this debate, and that protecting consumer access while requiring the FCC to study the issue is a reasonable way to proceed.

Thank you for your leadership on this legislation. We stand ready to build the world-class products that will be available to consumers as a result of the increased investment this bill will promote.

It is signed, as I said, by 100 companies.

By supporting this bill, because it encourages broadband deployment, they support the lighter regulatory approach to net neutrality, as I said. There has been much debate on this issue in the Senate Commerce Committee, in the House committees, on the House floor, in newspapers, and in the ''blogosphere,'' as it is called now. But some Senators still prevent full debate on this issue on the Senate floor. It is time now for the Senate to allow debate on this bill to start. America needs this bill.

EXHIBIT 1

SEPTEMBER 19, 2006.

Hon. BILL FRIST,
Republican Leader, U.S. Senate, Washington, DC.
Hon. HARRY REID,
Democratic Leader, U.S. Senate, Washington, DC.

DEAR SENATORS FRIST AND REID: As leaders in the networking and communications industries striving to produce new technologies for our nation and the world, we are pleased to support the Advanced Telecommunications and Opportunities Reform Act (H.R. 5252) as approved by the Senate Commerce Committee. It is our hope that the full Senate will approve this legislation in the very near future.

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Thank you for your leadership on this legislation. We stand ready to build the world-class products that will be available to consumers as a result of the increased investment this bill will promote.

Sincerely,

2 Wire, Inc., 3M Company; AC Data Systems, Inc.; AC Photonics, Inc.; Actiontec Electronics, Inc.; Active Optical Mems, Inc.; ADC Telecommunications, Inc.; Adtran, Inc.; AFL Telecommunications LLC; Agilent Technologies, Inc.; Aktino, Inc.; Alcatel North America; Allot Communications; Amedia Networks, Inc.; Anda Networks; Anue Systems, Inc.; Applied Optoelectronics, Inc.; Argent Associates, Inc.; Arnco Corp.; Atlantic Engineering Group; Axerra Network.

BaySpec, Inc.; Berry Test Sets, Inc.; BTECH Inc.; Carlon, Lamson & Sessions; CBM of America, Inc.; Charles Industries, Ltd.; Ciena Corporation; Cisco Systems, Inc.; CoAdna Photonics, Inc.; Condux International, Inc.; Conklin-Intracom; Corning Incorporated; Communication Technology Services; Dantel, Inc.; Ditch Witch (The Charles Machine Works, Inc.); DSM Desotech Inc.; Dura-Line Corp.; Electrodata, Inc.; Ellacoya Networks, Inc.; Enhanced Telecommunications, Inc.

Entrisphere, Inc.; FiberControl; FiberSource, Inc.; Finisar Corp.; Hammerhead Systems Inc.; Hatteras Networks, Inc.; Hitachi Telecom (USA) Inc.; Howell Communications; Independent Technologies Inc.; Katolight Corp.; KMM Telecommunications, Inc.; Leapstone Systems, Inc.; Lightel Technologies, Inc.; Lucent Technologies Inc.; MasTec Inc.; MBE Telecom, Inc.; Metrotel Corp.; Microwave Networks Inc.; Motorola, Inc.; MRV Communications, Inc.

NeoPhotonics Corp.; Neptco, Inc.; Norland Products Inc.; Nortel Networks Corporation; NorthStar Communications Group, Inc.; NSG America, Inc.; Nufern; OFS; Omnitron Systems Technology, Inc.; OnTrac, Inc.; Optical Zonu, Inc.; PECO II, Inc.; Preformed Line Products, Inc.; Prysmian Communications Cables and Systems USA, LLC; Qualcomm Inc.; Quanta Services, Inc.; Redback Networks Inc.; Roebbelen; Sheyenne Dakota, Inc.; Sigma Designs Inc.

SNC Manufacturing Company, Inc.; Sumitomo Electric Lightwave Corp.; Sunrise Telecom, Inc.; Suttle Apparatus Corp.; Symmetricom, Inc.; Team Alliance; Team Fishel; Telamon Corp.; Telcobuy.com, LLC; Telesync, Inc.; Tellabs, Inc.; Tyco Electronics Corp.; US Conec Ltd.; Valere Power, Inc.; Vermeer Manufacturing Company; Wave7 Optics, Inc.; White Rock Networks, Inc.; Xecom, Inc.; Xponent Potonics Inc.; Zoomy Communications, Inc.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I would like to make some comments regarding the pending business, H.R. 6061, the act that came to us from the House of Representatives which is titled the Secure Fence Act of 2006, the essence of which would provide the authority for the United States to construct a variety of features across large portions of our border with Mexico to prevent illegal immigration.

The point of this legislation is, of course, to follow through with a series of appropriations that we have now provided for to enhance our ability to put National Guard troops at the border, construct more fencing, construct more roads, more vehicle barriers,

more sensors, more lights, more cameras, and provide more Border Patrol to patrol this large area of our border.

The combination of all of these, personnel and infrastructure and technology enhancements, will enable us to gain effective control of our border. I am pleased that as a result of the appropriations we have passed over the last couple of years, we are now beginning to see our efforts pay off. In many areas of the border, the enhanced security is paying off. It is noticeable. I will cite some of the statistics to point that out.

I express support for this legislation because it provides a roadmap. It makes it very clear where we are going. It establishes principles by which the Department of Homeland Security can operate with the funding we have been providing and will provide in the future.

The essence of the legislation, as I said, is to provide more reinforced fencing, more physical barriers, roads, lighting, cameras, and sensors. The Secretary of Homeland Security obviously will determine the appropriate sequencing of when these things are constructed and the appropriate mix as to where you put the fencing, where you put the vehicle barriers, the sensors, and so forth. The bill itself, for example, recognizes that in mountainous areas, you would be exempt from providing some of the fencing. But the bottom line is to provide a combination of things which, in concert with personnel, will make it much more difficult for illegal entry into the United States. The net result will be that it will be much more difficult for smugglers and illegal aliens to gain entry into the country, it will significantly reduce crime rates in border towns, it will clearly improve the quality of life for Arizona and for the constituents I represent, and it will preserve the fragile desert lands and archeological resources which are being destroyed by the illegal pedestrian and vehicular traffic, again particularly along the area of the border between the State of Arizona and the area of Senora in northern Mexico.

Let me talk for just a moment about the environmental impact because that has been a matter of some concern to those who view this legislation as simply involving the creation of some kind of a wall. Now, let me make it clear. This is not a wall. Fencing, per se, is not a wall. In fact, part of what we would be doing here is replacing the so-called landing mat fencing, which does look like a wall, with chain link-type fencing that you can see through. There are two reasons for this. The landing mat fencing is the steel landing mats that are left over from primarily World War II that can be stood on end and welded together, embedded in concrete pilings, and represent a barrier to entry into the country. They are high and it is hard to get over them but not at all impossible. All you need is a ladder on the other side of the fence and a willingness to fall down and maybe break an arm on this side, and a lot of people do that.

The fencing is deteriorating. It is very difficult to repair because of its age. And for the Border Patrol, they can't see through it, so it represents a disadvantage to them because they can't see who is amassing on the other side of the border. They can't see where rocks are being thrown from, and now rock-throwing has been a highly dangerous problem for members of the Border Patrol. So they would prefer to have either single or, even better, double fencing which they could see through and which is a more modern design than this landing mat fencing. So far from being a wall, what is contemplated in this legislation is exactly the opposite. It involves a fence which you can see through combined with other kinds of technology such as vehicle barriers, cameras with which we can see illegal entry, sensors with which we can detect it, and lights which help us to see.

Now, we are not going to put the fencing along the entire border, obviously. In some parts of the border, particularly near urban communities, we will extend the fencing. In other areas, the legislation contemplates vehicle barriers. This is important because in certain flat areas of the desert, a lot of vehicles are being brought across now. Ordinarily they are stolen in the United States, taken across the border, filled with some kind of contraband, be it illegal drugs or the human cargo the Coyotes pick up, and then they bring that across the border. Frequently, those vehicles are abandoned on our side of the border, representing an environmental hazard.

But what the Border Patrol has discovered is that as they have begun to get more operational control or jurisdiction over the border area because of the increased number of Border Patrol agents and vehicles and fencing and so on that we have already provided, the Coyotes and the cartels—the drug smugglers, the gangs—are fighting for this operational control of territory, and they are using weapons. What the Border Patrol tells me is that whenever they see a vehicle, they know it is a problem because it has a more valuable cargo and is likely to be defended with weapons. That is one reason they are so insistent on putting vehicle barriers in some areas of the border.

In some areas, fencing will not be appropriate, and cameras will do the job. I have been in the control rooms where we have one person able to monitor many different TV screens that represent the views of many different cameras, some of which are infrared, so you can see at night. This way, you don't have to have fencing all along the border; you have cameras which can show you what is happening. When you see groups of illegal immigrants massing on the other side of the border, preparing to cross, the person in the control area calls the Border Patrol, and they are able to get to the location in time to stop the entry or to pick up the people and return them if they have already entered.

Again, you don't need fencing across the entire border. It is not a wall. It is not solid fencing. It is a combination of things which, working together, will enable us to secure the border.

I mentioned the environment because I think it is important for us to recognize that more fencing and these other techniques can actually help improve our environment. It does not degrade the environment. The illegal border crossing traffic has created thousands of new trails and roads on Federal lands in Arizona. I am going to submit for the RECORD the documentation of each of the things I am saying here rather than provide them orally, but for each of these comments I am making, there is documentation through hearings that have been held, through reports that have been issued, through stories that have appeared in newspapers and so on.

For example, the Defenders of Wildlife notes that since 2002, 180 miles of illegal roads have been created in the Cabeza Prieta National Wildlife Refuge alone. This is a wildlife refuge we have set aside for the pronghorn antelope and bighorn sheep and other species we want to protect, and the entry of all of these vehicles, illegally creating these new roads, is substantially disrupting the habitat, for example, for the bighorn sheep. The illegal roads divert the normal flow of water, and they rob native plant cover of the moisture it needs to survive. The proliferation of trails and roads damages the flora and fauna—the cactus, for example, and other sensitive vegetation—and disrupts and even prevents the revegetation of the area. You can see tracks in the desert that were created over 50 or 60 years ago, and it takes that long for the fragile desert to recover. That is one of the unfortunate results of all of this illegal immigration, which could be prevented with more vehicle barriers and fencing along the border.

The trails obviously create soil compacts and then erosion which, in other areas, results in damage. I have seen with my own eyes the tons of trash that is left behind. If you can imagine millions of people over the course of time trying to cross the border and leaving behind hundreds of thousands of plastic water jugs and items of clothing and elements in backpacks and the like, it is just incredible, what you see, and it creates all kinds of problems. This proliferation of trash and, by the way, concentrations of human waste, I would also note, impacts wildlife and vegetation and water quality. It detracts from the scenic qualities, obviously, and can affect human and animal health from the spread of bacteria and disease. Trash is also ingested by wildlife and livestock, which sometimes results in illness or even death of the livestock and wildlife.

In the early 1990s, over 300 wildfires were caused by campfires of illegal immigrants, which additionally poses a threat both to the environment and to human safety in these areas.

The damage is not limited to the compaction, and so on, by human traffic. As I noted, vehicles coming across create their own special set of problems. Abandoned vehicles are often left in place, and the burden of removing them falls to the Government, which has to very carefully try to get to the vehicles without creating new roads and trails and get them removed without causing even more environmental damage. If they are not removed quickly, they are often set on fire by vandals. They have fluids that leak into the watershed and into water courses. As I said, further removal causes additional damage as the tow trucks are forced to navigate previously unspoiled areas of the desert.

Interestingly, the illegal immigrants frequently take vegetation from the environment to build shelters, and by taking a lot of the ocotillo cactus, for example, they are removing a very important species from the desert to build these camouflages, drug stashes, and temporary shelters.

Also, interestingly, when illegal aliens fill water bottles in the wetland locations, it has been determined that they have actually infected these protected Federal wetlands with invasive parasites and diseases which have been carried with them in the water levels which have harmed native fish and wildlife. In fact, in a report to the House of Representatives committee, according to this report, new tapeworms and fungi have already impacted populations of endangered fish and frogs.

So when we talk about the potential damage to the environment from the fences, it is easy to see that there is far more of a benefit than a cost to creating impediments to illegal entry which is creating the kind of environmental impacts I am talking about.

Just to give one summary impact, Coronado National Forest, which is on the border in the area of Tucson, experienced the following environmental degradation from the period 1996 to 2006: 298 abandoned motor vehicles, 300 miles of significant damage to environmental resources caused by off-road vehicle use, 120 human-caused wildfires.

There is an interesting parallel with the fence which was built in the San Diego area. There was concern about the environment there as well. But not only has the construction of that triple fence in the area of San Diego virtually stopped illegal immigration in that area, it has significantly reduced crime on both sides of the border because the criminals who used to congregate in the area are no longer congregating in the area because they can't get across. The result is the San Diego fence has significantly improved the environment in the area, with grasslands coming back and the return of protected species that hadn't been reported in the area for years. I believe all of this is an important element in that debate, demonstrating that the additional fencing and other border technology can help to prevent environmental damage.

But what of the primary purpose of the fencing to prevent illegal entry? This is important for a variety of reasons. Due to the close proximity of the border to a number of major highways in the State of Arizona, illegal immigrant and drug trafficking is often intense. When smugglers can manage to reach the roads, they often resort to excessive speed, driving without lights, and driving down the wrong side of the road to escape law enforcement. There have been a lot of injuries and deaths and attacks on Border Patrol that have resulted. We had an actual shoot-out on the freeway between Tucson and Phoenix between two rival gangs who were contesting to see who could own the illegal immigrants in the van at issue. Frequently, these vans are wrecked, overturned, and a lot of illegal immigrants are killed or injured.

In the one unfortunate case, in the town of Sierra Vista near the border, an elderly couple in the community had just gotten married—I believe it was the week before—and they were simply driving through an intersection, minding their own business, when, with excessive speed in order to avoid apprehension, a load of illegal immigrants came crashing through, hit their vehicle, and killed them both. You can imagine the sorrow as well as the anger in this small community when these wonderful people, who were known to many of the residents of the community, when their lives were extinguished right after they were married and looking forward to some very happy years because of this illegal activity. This has real impacts on people's lives in the United States, and that is another reason to end it.

We had testimony in the subcommittee which I chair—of the Judiciary Committee—Terrorism, Technology and Homeland Security, about the number of illegal immigrants who cross who are criminals or who are wanted for crimes. It isn't just a matter of keeping people from entering the United States to work. The testimony was, by the head of the Border Patrol, that now over 10 percent of the illegal immigrants apprehended coming into this country are criminals. I am not talking about immigration violations; I am talking about serious crimes such as homicide, rape, assault, kidnapping, serious drug crimes. It is not only overloading our law enforcement and court systems, but it is also creating a huge problem at the border.

The U.S. attorney for Arizona, Paul Charlton, testified that last year assaults at the border were up 108 percent. Why? Because, as I said before, the Border Patrol and law enforcement is now contesting the territory that before the cartels and the coyotes had some degree of control over, and they are fighting back. They are fighting back with weapons, and they are also fighting back with things like rocks, which you may not think is a threat until you get hit in the head with one and are severely injured and maimed, really, for the rest of your life.

There is a lot to protect with more fencing, more vehicle barriers, more cameras, more sensors, and the like at our border. It is interesting that vehicle barriers, which are important because, as I said, whenever the Border Patrol sees a vehicle, they know they have a problem because of an important value in the load. Vehicle barriers have worked in the Buenos Aires National Wildlife area, for example, where there has been a 90-percent reduction. In the Organ Pipe Cactus National Monument there has been a 95 percent reduction in vehicle traffic. It can work. But we have to do it.

People say we have tried it and it doesn't work. We have barely started. In fact, there are almost four times as many New York City police officers as there are members of the Border Patrol. So our effort now to build up the Border Patrol, add this fencing, add the vehicle barriers, add the cameras, and all these things to the border is beginning to have an impact. It can work. We simply have to do more. That is what this legislation would provide.

I will not cite the statistics, but there is great evidence that the fencing in the San Diego area has substantially reduced the amount of illegal traffic across the border. It used to represent about half of the border crossings. It is now down to 10 percent. In the area of the triple fence, it is practically zero, I am told.

The bottom line is that we can make a substantial difference by not only appropriating the money—I saw, just a moment ago, the chairman of the Budget Committee here, and the subcommittee in charge of appropriations for this effort. The Senator from New Hampshire was on the Senate floor a moment ago. I commend him again for his efforts, primarily in the last couple of years, to make funds available to do all these things.

As I said, we are moving forward with this at the border, and it is beginning to make a difference. What the legislation passed in the House of Representatives will enable us to do is to have a clear path, a clear guideline of exactly what we are going to do. It provides discretion to the Department of Homeland Security about what exactly to do in what areas. It is not a fence along the entire border, it is a combination of these different things as the Department of Homeland Security deems appropriate. But we believe, in consultation with the Border Patrol, with local officials, that they can determine where best to put each of these assets and how to sequence their construction in such a way as to eventually gain control of the border, and that should be our first goal here: to

establish control of the border, to secure the border so we can move on with the other elements of comprehensive immigration reform which, incidentally, I support very strongly. But I think most of us agree a first step must be to secure the border.

I commend this bill to my colleagues. I hope we will be able to get cloture on Monday and we can proceed to its adoption. For those constituents in my home State of Arizona, this would be a very big benefit since over half of the illegal immigrants now entering the United States come through my State of Arizona. This is critically important for my State, but it is also important for the United States, and I hope my colleagues will join together to support this important legislation.

Mr. President, I ask unanimous consent to have printed in the RECORD some background materials on this subject.

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

Nearly 50 percent of the illegal aliens crossing the southern border of the United States enter through Arizona in the Tucson and Yuma Sectors. In fiscal year 2006, more than 161,253 illegal aliens have been apprehended in Tucson Sector, and 61,974 illegal aliens in Yuma Sector. [Source: CBP].

Illegal cross border traffic has created thousands of new trails and roads on Federal lands in southern Arizona. Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, 107th Cong., 2d Sess. at 3 (2002).

Since 2002, 180 miles of illegal roads have been created in the Cabeza Prieta National Wildlife Refuge alone. Brian P. Segee, On the Line: The Impacts of Immigration Policy of Wildlife and Habitat in the Arizona Borderlands, Defenders of Wildlife Report 20 (2006).

Illegal roads divert the normal flow of water and rob the native plant cover of the moisture it depends on to survive. Kathleen Ingley, Ghost Highways, Arizona Republic, May 15, 2005.

The proliferation of trails and roads damages and destroys cactus and other sensitive vegetation, disrupts or prohibits re-vegetation, disturbs wildlife and their cover and travel routes, causes soil compaction and erosion [and] impacts stream bank stability. Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, 107th Cong., 2d Sess. at 3 (2002).

Tons of trash and high concentrations of human waste are left behind by undocumented aliens. This impacts wildlife, vegetation and water quality in the uplands, in washes and along rivers and streams. This also detracts from scenic qualities and can affect human and animal health from spread of bacteria and disease. Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, 107th Cong., 2d Sess. at 3 (2002). Trash is also ingested by wildlife and livestock, sometimes resulting in illness and death. Id. at 20.

In the early 1990s, over 300 wildfires caused by campfires of illegal immigrants posed a significant threat to human safety and wild lands along the border, as well as increased impacts to soils, vegetation, cultural sites, and other sensitive resources. Border Security on Federal Lands: What Can be Done to Mitigate Impacts Along the Southwestern Border: Hearing Before the H. Comm. on Resources, 109th Cong., 2d Sess. at 2 (2006) (statement of Steve Borchard, Dept. of the Interior).

Vehicles used by drug and human traffickers are often damaged, resulting in fluid spills (gasoline, motor oil, radiator fluid, etc.) and spreading hazardous debris (glass, torn sheet metal, etc.) that harm the environment. Abandoned vehicles are often left in place and the burden of removing them falls on Federal law enforcement officials. If the vehicles are not removed quickly, they are often set afire by vandals, creating an even larger safety and environmental concern. Border Security on Federal Lands: What Can be Done to Mitigate Impacts Along the Southwestern Border: Hearing Before the H. Comm. on Resources, 109th Cong., 2d Sess. at 4 (2006) (statement of Steve Borchard, Dept. of the Interior).

After blazing destructive paths through the desert, large numbers of vehicles are abandoned by smugglers and illegal aliens. These vehicles emit pollutants, like gasoline, oils, antifreeze, and lead, which often soak into the ground and can reach water sources. Further, removal often causes additional damage as tow trucks are forced to navigate previously unspoiled terrain to access the abandoned vehicles. Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, 107th Cong., 2d Sess. at 17–18 (2002).

Illegal aliens trample the native vegetation in riparian areas in an effort to get water and uproot native plants like ocotillo cactus to build temporary shelters or to camouflage drug stashes. Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, 107th Cong., 2d Sess. at 15 (2002).

When illegal aliens fill water bottles in wetland locations they can infect these protected Federal wetlands with invasive parasites and diseases which can doom native fish and wildlife. New tapeworms and funguses have already impacted populations of endangered fish and frogs. Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, 107th Cong., 2d Sess. at 23 (2002).

Illegal aliens transport in seeds from invasive plant species. Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, 107th Cong., 2d Sess. at 23 (2002). And since the vehicles on the road have churned up the soil and diverted the water flow, these new plants can take root. Kathleen Ingley, Ghost Highways, Arizona Republic, May 15, 2005.

The Coronado National Forest experienced the following environmental degradation 1996–2001: 298 abandoned motor vehicles; 300 miles of significant damage to natural resources caused by off-road vehicle use; and 112 human-caused wildfires. Report to the House of Representatives Committee on Appropriations on Impacts Caused by Undocumented Aliens Crossing Federal Lands in Southeast Arizona, 107th Cong., 2d Sess. at F–5 (2002).

The construction of the San Diego fence has resulted in the return of protected species that have not been reported in the area for many years. Border Security on Federal Lands: What Can be Done to Mitigate Impacts Along the Southwestern Border: Hearing Before the H. Comm. on Resources, 109th Cong., 2d Sess. at 1 (2006) (statement of Chris Ingram, Gulf South Research Corporation).

Due to the close proximity of the border to a number of major highways, illegal immigrant and drug trafficking is often intense. If smugglers manage to reach the road, they often resort to excessive speed, driving without lights, or driving down the wrong side of the road to escape law enforcement officers, resulting in accidents, injuries, and death. Border Security on Federal Lands: What Can be Done to Mitigate Impacts Along the Southwestern Border: Hearing Before the H. Comm. on Resources, 109th Cong., 2d Sess. at 4 (2006) (statement of Steve Borchard, Dept. of the Interior).

Much of the existing pedestrian barriers consist of unsightly ''landing mat'' wall structures that are operationally unsound, as Border Patrol Agents cannot see through them to monitor developing events on the Mexican side, and are more vulnerable to being struck with rocks that they cannot see coming. The landing mat fences are so aged and damaged that they cannot easily be repaired, and when corrugated, can have doors cut into them that are difficult to detect. Vehicle barriers will help stop ingress of armed human and drug traffickers, and end mistaken incursions by Mexican military units into U.S. territory. [Source: CBP].

Vehicle barriers significantly reduce illegal vehicle traffic. Since installation, the Buenos Aires National Wildlife Refuge has seen a 90 percent reduction in vehicle traffic in some areas, and the Organ Pipe Cactus National Monument has seen an estimated 95 percent reduction in vehicle traffic. Corinne Purtill, New Fences Protecting Fragile Areas on Border, The Arizona Republic, August 26, 2006 (verified by Customs and Border Protection Sept. 19, 2006).

In 1992, the Border Patrol apprehended 565,581 illegal immigrants in the San Diego Sector, which constituted 47 percent of illegal immigrants apprehended by the Border Patrol that year. After construction of fencing was accelerated as part of Operation Gatekeeper in 1993, the annual numbers began a steady decline. In 2005, 126,913 aliens were apprehended in the San Diego Sector, which was just 10 percent of the total number interdicted by the Border Patrol. (Source: Office of Legislative Affairs, U.S. Customs and Border Protection).

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I would just like to add to what my colleague from Arizona has said about the importance of border security. One of the clear priorities in the debate about immigration is what are we going to do to take steps to ensure that we stem the flow of illegal immigration in this country. The Senator from Arizona has been a great leader on this issue. I commend him for that. Of course his State is right down there on the border. But, ironically, even in my State, the State of South Dakota, which is somewhat removed from the border, we are experiencing the effects, some of the negative effects of immigration.

In fact, I had a meeting not long ago with law enforcement personnel in my State—State, Federal, local law enforcement—to talk about the methamphetamine issue which has become a real epidemic in my State like it has in many other places. In fact, methamphetamine arrests were up 45 percent last year in Sioux Falls, which is

our biggest city. There is what is known as the I–29 corridor, from Sioux City to Sioux Falls, beyond to South Dakota, and up into North Dakota. It has become afflicted with the methamphetamine crisis.

As I met with them, one of the things that became very clear is that much of what is driving the methamphetamine scourge in our area of the country is people who have come here illegally. It is illegal immigrants who come in and set up these distribution systems in this country, and they are targeting the Indian reservations. There have been a number of stories about how the methamphetamine—if you want to call them cartels or whatever—have looked for places in the United States where they have wide open space, which we have on our reservations in South Dakota and we do not have sufficient law enforcement to necessarily keep up with some of those problems. They are targeting Indian reservations.

I talked to one law enforcement individual from one of the reservations who said they had just sent back somebody who had come into this country, broken the law on the reservation, for the ninth time. That is how easy it has become to get in and out of this country illegally. That is why it is important this issue be addressed.

I understand there are differences of opinion in the Senate about how to address this; whether or not we ought to have a comprehensive approach or how we deal with those who are already here illegally. I think those are all points of debate and issues we need to continue to discuss and resolve. But we have to start fundamentally with stopping the problem now. The people of this country expect us to act. It is a matter of national security.

We have the possibility of terrorist organizations using our open, porous border as an opportunity to get a foothold in this country. As I have said, we have a lot of law enforcement issues related to people who come here illegally and then commit illegal acts—the methamphetamine incidents I talked about in South Dakota being one example. But, clearly, we need to start sealing, securing this southern border to make sure the people of this country have confidence that we are taking the steps necessary to stem the flow of illegal immigration and to get this issue under control.

I appreciate the work the chairman of the Budget Committee and others have done to put more resources and funds toward that because I think it has made a profound difference already. But, frankly, this legislation we are considering today is important because it will send a loud, clear message to the people in this country that we are serious about this issue of illegal immigration, starting with securing the border.

The other issues that follow from that we can debate. There is an agreement on that. I think the one thing there is agreement on, the one thing people in this country want to see action on now is let's get this border secure. So this border security bill that has come over from the House and is being debated in the Senate, I hope we will get a vote on it and be able to pass it through the Senate and put something on the President's desk that will move us in the right direction, a direction that will discourage people from coming here illegally. The thing we want to do is discourage people from coming here illegally.

I say that as a person one generation removed from immigrant status. My grandfather and great-uncle came here from Norway in 1906. We are a nation of immigrants. People come for the same reason they did: they want to experience the American dream.

We are a welcoming nation, and we are also a nation of laws. We need to enforce those laws, and this legislation moves us in that direction. It deals with what is the first priority in this debate, and that is securing the American border so that not only from a national security standpoint, a law enforcement standpoint but, frankly, just so people in this country know and people in other countries in the world who want to come here illegally know that we are a nation of laws, and we are going to enforce those laws.

That is where this debate should start. This will give us an opportunity to do something about which I think there is broad agreement. We can address the other issues in due time, but right now, in the time we have left in the Senate before we adjourn, it is important we address this issue.

I want to speak to one other matter. I came to the floor yesterday, and I want to follow up on something I said.

For anybody who watched the comments at the United Nations made by Hugo Chavez of Venezuela, it should have removed any doubt about the importance of American energy independence. We need to become energy independent. We get a million barrels of oil a day from Venezuela. This is a country whose leader was spewing hatred at the United States; someone who, in the past, has said that the President and his administration were responsible and behind the 9/11 attacks.

This is a country, and many of the other countries like that one, where we get the majority of our energy. They are countries that are hostile to the United States. They want to use the leverage they have as a political weapon against the United States.

The way we avoid that from happening is America becomes energy independent. We need more sources of American energy. We need to take steps so that we have the supply in this country that will enable us to meet the needs that we have in our economy, without having to get energy from the Middle East or from Venezuela, OPEC, other countries that have very hostile intentions toward the United States.

Yesterday, I came down here to talk about a bill that will move us in that direction. I have legislation that is pending in the Senate. It has passed the House. As a matter of fact, it passed the House by a huge margin, 355 to 9, broad bipartisan support coming from the House. It comes here from the Senate. Senator SALAZAR and I have a substitute amendment to that which has been cleared by the Republicans in the Senate. The House has said as soon as we send it back to them they will pass it and it will be put on the President's desk. But we have a series of secret holds on the Democratic side in the Senate.

I know that is part of the tradition of the Senate. I don't happen to think it is a good part of the tradition of the Senate, that people can put a secret hold on a bill and you don't have any idea who has a hold on it, what their issues are. I have my suspicions, since this is an even-numbered year, about why some of these holds are being placed on this bill. Nevertheless, it has the relevant committee's blessing. It has been approved by the committees here.

As I said, we have cleared all the traps on the Republican side of the aisle in the Senate. So the legislation is ready to be passed, sent back to the House, sent to the President, and signed into law. But we have a series of secret holds on the Democratic side in the Senate. That is wrong. Whatever the motivations are, this is policy that is important to the country.

I just mentioned the issue of energy security, of energy independence. This is an issue that strikes at the very heart and core of almost every issue we are debating in the country today, whether it is the economy and the cost of energy, whether it is national security, foreign policy—energy, the fact that we depend upon foreign sources for our energy supply in this country, is a very serious and vexing problem. We have to address it. We need to put policies in place that will create more supply here in America.

This legislation, again, very briefly—to explain it because I explained a little bit yesterday—fills the distribution gap that we have in the area of renewable energy. We passed an energy policy last summer. Part of our policy is a renewable fuels standard which guarantees a market for ethanol and other types of bioenergy. We now have a lot of plants around the country that are operating at full capacity, producing ethanol. We have plants under construction. My State of South Dakota has been at the forefront of that movement, but we will very shortly be at a billion gallons a year production of ethanol.

The problem we have is we do not have a way of getting it to the consumer in this country because we don't have enough refueling stations, gas stations, and convenience stores that have installed the pumps that are necessary to deliver E85 to consumers in this country.

This was an ad that was run in one of the local publications here, Congress

Daily. I saw it a few days ago. I saw it again today in that same publication. It is put out by the Auto Alliance. The Auto Alliance in this country, which represents the major car manufacturers, is very much supporting this legislation. What this ad says is that there are 9 million alternative fuel autos in this country today—and counting: 9 million cars in America today that are what we call flex-fuel vehicles; that is, they are capable of running either on traditional gasoline or E85 ethanol. Nine million vehicles—they are ramping up, building, and manufacturing more flex-fuel vehicles. If you watch the television advertisements today and you see the auto manufacturers run their advertising, they are talking more and more about flex-fuel vehicles. This is an important priority for the auto industry. They have the cars that are out there that are capable of using E85. The problem is, there are not enough filling stations that have it available.

In their letter that they sent in support of this bill, the Alliance of Auto Manufacturers says—and I used the number yesterday. This is a slightly different number, but it is in the ballpark. I said there were 600 gas stations in this country that offer E85 out of a total of 18,000. In their letter they say 830 gas stations, so maybe it has gone up a little bit, out of the total number of gas stations in the country that have E85 ability.

There are 9 million vehicles and counting that can run on flex fuel using E85 or other bioenergy—only using the high number of 830 refueling stations where they can get that.

In the Midwest where I am from, in South Dakota, we have a number of filling stations that make E85 available. But that is the exception and not the rule.

Our bill provides an incentive for these refuelers to install E85 pumps, not just E85. This isn't just an ethanol issue; other alternative energy types of fuels can be used. But it provides an incentive for them to install pumps to make renewable energy and alternative sources of energy more readily available to consumers in this country. It does it very simply by providing grants up to $30,000 per pump at the gas station. Because they can install more than one, they can take advantage of the incentive more than once. If they install an E85 pump, they can get up to $30,000 to do that. The cost of installing one of those pumps, depending on where you are in the country, is between $40,000 and $200,000.

The simple fact is, this incentive will go a long way. As has been noted, and as I said, the auto manufacturers sent a letter supporting the bill, as has the National Association of Convenience Stores which represents all of the gas stations around the country. They are supporting this; the auto manufacturers are supporting this.

It does not affect the budget because we paid for it. The way we paid for it is by using the fines that are paid by foreign auto manufacturers for violations of fuel efficiency standards. Take a fine which has been paid and apply those dollars toward a program that provides incentives for fuel retailers to install five pumps and other pumps that offer other forms of alternative energy.

But, frankly, as I said before, it is an important priority. We have auto manufacturers making the cars, ethanol producers that are producing the ethanol, you have consumers in this country who want this product, and you have a requirement now, because of the renewable fuels standard that we passed last year and put into law in the Energy bill, that States meet those standards. You have all of these things clicking. And Hugo Chavez comes to the United States and at the U.N. in a vitriolic way attacks our country and our leaders. Here we are getting a million barrels of oil a day from that country.

We need American energy. We need to be energy independent. We need to move America in a direction toward the future and take us away from relying on the traditional sources of energy.

We get almost 55 percent of our energy from outside the United States—and that has to change.

This legislation is broadly supported. It came out of the House by a vote of 355 to 9. It is broadly supported.

I have had Senators from both sides of the aisle come up to me—and, of course, I said it is cleared on the Republican side. I have had Democratic Senators say they really support the legislation. This is a good thing.

Again, I am at a loss—it is a mystery to me—to try to explain why anyone would be opposed to this. The only thing I can suggest is there are perhaps some election year motivations. I don't know the answer to that. I hope that is not the case.

This is the right thing to do for the country. It is the right policy to put in place for America's future. I call on my colleagues on the Democratic side who have these anonymous, secret holds—we don't know who is holding it up. I wish I knew the answer to that. I would love to have them come down here and defend their position because there is absolutely no logical reason anybody would object to this piece of legislation which implements policy, consistent with the energy policy that we adopted last summer, the renewable fuels standard, and make available for people in this country E85 ethanol.

There are 9 million automobiles in this country and counting that can run on E85. If you use the generous estimate, there are 850 refueling stations. That is a terrible gap. We need to fill that gap in the distribution system in this country. This legislation would do that.

It is ready for action in the House, and it is ready to go to the President for his signature.

But we have, as I said, some anonymous and secret holds on the Democrat side preventing this legislation from moving forward.

I ask my colleagues—I urge my colleagues—on the other side of the aisle to release those holds and allow this bipartisan legislation, this important legislation, to get to the President's desk so we can begin to lessen our dependence on foreign sources of energy, on dictators, and countries like Venezuela and Iran, and have American-grown energy that will make America independent as we head into the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank you. I ask unanimous consent to speak for 5 minutes in morning business.

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

EQUAL OPPORTUNITY FOR ASIAN AMERICANS

Mr. CARPER. Mr. President, I want to take a moment to bring to the attention of our colleagues a full-page article which ran in the business section of the Washington Post recently headlined ''American Core Values, Equal Opportunity.'' I had some discussion in my caucus this week focusing on diversity and focusing on diversity of our own staff here on Capitol Hill and how well we are doing. This is an issue that is on my mind.

Some of my colleagues may be familiar with something called the 80–20 Educational Foundation which seeks to promote equal opportunity for Asian Americans. The president of the foundation, as it turns out, is a colleague and friend of mine, a constituent. He is former Lieutenant Governor, recently retired physics professor at the University of Delaware, Dr. S.B. Woo.

Here are some of the findings of 88–20's research as spelled out in the article in the paper.

No. 1. When compared to Whites, African-Americans, Hispanics, and women, Asian-Americans have the lowest odds of rising to management level positions in private industry, universities, and even in the Federal Government.

No. 2. This is interesting because 80–20's research also indicates that Asian-Americans are much more likely to obtain a college degree or higher than Whites, African-Americans, Hispanics, or women.

The data indicates that Asian-Americans have half the chance of Whites of rising to management-level positions.

If this is right, then this is wrong.

From the charts, we can also see that African-Americans, Hispanics, and women are still lagging behind as well. They are also less likely to rise to management level positions. And, perhaps more troubling for the future, they are also much less likely to obtain advanced degrees.

This country was founded on the premise that all men and all women are created equal and that we must always strive for equality and justice for all of us.

We have made great strides over the years. We have taken steps to get closer to that goal of equality and justice

for all. As I have often said, we can obviously make it better.

But an important part of that fight—which I think is illustrated in the Washington Post—is keeping vigilant. We must continue to stay vigilant to promote equal opportunity for all Americans, not just Asian-Americans. Each of the groups in these charts faces different barriers, different challenges. And although we have made great progress in the opportunities for all Americans, we cannot become complacent and assume that there is no work left to be done.

The fight for equal opportunity is a fight we must not allow to lag.

I hope my colleagues will consider the important information that is presented here today and maybe take the opportunity to look at it.

I ask unanimous consent to have the Washington Post item printed in the RECORD.

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

America's Core Value: Equal Opportunity

What makes America great also enhances competitiveness.

Asian Americans yearn to make greater contributions to our country.

However, today, Asian Americans have the least opportunity to enter management and the slowest rate of progress towards equal employment opportunity, despite having the highest educational attainment.

As the world's economic and geopolitical centers shift, can our nation afford to waste some of her best human resources?

[Chart 1]

[Chart 2]

Research Shows

A. Asian Americans have the lowest odds of getting into management in private industries, universities and the Federal government. 2.1 million Asian Americans work in the three sectors (see Chart 1). Data come from government sources and the methodology from the Equal Employment Opportunity Commission.

B. Should Asian Americans be more patient? The rate of progress from 1996 to 2001 for all workers in Chart 1 was studied. Although Asian Americans are twice the distance from equal opportunity (the blue dashed line) compared with Hispanics and women, Asian Americans' rate of progress is only half that of the latter groups. At the current rate, equal opportunity will not be reached by Asian Americans in another 75 years or three more generations.

C. Asian Americans face these realities of low odds and a three-generation waiting period despite having the highest educational attainment, according to data from US Census 2000 (see Chart 2). Educational attainments have come to all from deep sacrifices of parents and sheer diligence by their children.

Mr. CARPER. I thank the Chair.

I yield the floor and 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. REED. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. REED. Mr. President, I understand I have 14 minutes with respect to postcloture debate. I ask unanimous consent to speak beyond those 14 minutes.

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

MEDICARE PART D

Mr. REED. Mr. President, I rise today to discuss my deep concerns about the Medicare Part D Program. The ''D'' was supposed to stand for a new prescription drug benefit, but now seniors are finding that ''D'' really stands for doughnut hole. Unlike most other types of health insurance, the Medicare drug benefit was intentionally designed with a coverage gap or doughnut hole that requires beneficiaries to pay for all yearly prescription drug spending between $2,250 and $5,100.

Let me explain. It is baffling to most people that the Part D Program was designed so that beneficiaries paying premiums each month receive support for their drug costs until they have spent $2,250, and suddenly the insurance goes away. The premium stays, but the insurance goes away until you reach $5,100. That is an unusual insurance program, to say the least. Seniors will experience this lapse in coverage once their drug costs have exceeded $2,250. When they are in the doughnut hole, they have to pay for all the drugs out of pocket, as well as paying the monthly premium. That does not sound like a sensible insurance program. That is, in effect, what this Part D Program involves.

According to one estimate published in the journal Health Affairs, the average Part D beneficiary will spend almost $3,100 this year on prescription drugs. So the President's idea of cost containment is not to drive pharmaceutical manufacturers to rein in prices but to just cut off seniors' benefits when they most need the coverage.

Many Medicare beneficiaries with high drug expenses already have begun to fall into the doughnut hole and are struggling to pay for their medications or are unable to fill their prescriptions at all. It has been reported that average Medicare Part D beneficiaries will also begin falling into the doughnut hole this week. It almost sounds like ''Alice in Wonderland,'' where suddenly you are swept into a new world as you go through the hole. A world that requires seniors to come up with their the resources to pay for these premiums as well as their prescription drugs.

I am hearing from many seniors in my State facing problems with Medicare Part D. I know I am not alone. I think every Member of this Senate, when they go home and talk to seniors, is hearing it. We will hear it with more frequency as their expenses increase and their experience with the doughnut hole increases.

In one case, an individual sent a letter to the Rhode Island attorney general and copied me on it because they thought a crime was being committed. They literally thought they were being robbed because one day they got help with the prescriptions, and the next day there is no help at all.

Now ''D,'' besides standing for doughnut hole, stands for dire circumstances. These are the circumstances in which seniors will find themselves unless we do something to fix this problem because the doughnut hole will only get bigger and bigger year after year.

Today, over 38 million Americans on Medicare have some form of prescription drug coverage. Of these beneficiaries, 10 million have coverage through a standard Part D prescription drug plan, and up to 7 million could be subject to the doughnut hole between now and the end of the year. The numbers will only grow in the coming years if the administration allows drug prices to continue to escalate. What trips seniors into the doughnut hole is the cumulative spending on drugs. If drug prices go up, seniors very quickly reach that threshold where the doughnut hole kicks in. Tragically, many beneficiaries are unaware that this coverage gap exists and only learn about this lapse after they have fallen into the hole. To add insult to injury, these beneficiaries are expected to continue paying monthly premiums through their drug plans even though they receive absolutely no coverage in return. This is a very unusual health care plan, to be paying a monthly premium but not be eligible for coverage.

When we pay health care premiums, we hope we don't have to use any of the coverage, that we are healthy and well, but we all have in the back of our minds the knowledge: If something happens that month, I am eligible, I can get the help. Not so in the doughnut hole. Seniors keep paying the monthly premium, and then they pay, out of pocket, the full cost of the prescription.

I didn't support the Medicare Modernization Act which created Part D because I believed the benefit was insufficient and the emphasis on a privately administered program made it excessively complex. By relying on over 40 private plans in each region, each with a different benefit structure, many beneficiaries are confused about the plan offerings and which plan may suit them best. Moreover, a recent General Accounting Office report finds an alarming number of private Part D plans are providing inaccurate or incomplete information to Medicare beneficiaries about the coverage and benefits provided under the various plans.

No doubt, there are some people who have benefited from this new program, but for too many Part D enrollees with complex medical conditions, the benefit has largely been a source of great confusion and concern. We could have done it differently. We could have done it more simply. We could have done it more efficiently.

Many of the problems we are seeing today could have been averted if the

Administration had not made the program needlessly complicated and if they had done a better job of preparing the public. Despite all of the serious shortcomings of Medicare Part D, the program has taken effect. It is now incumbent upon us to work together to turn things around and improve the situation.

In an effort to provide some modest short-term relief to seniors, I am working with Senators DORGAN and BINGAMAN on the Prescription Fairness Act. This bill has a simple premise: beneficiaries should not have to continue paying monthly premiums when they have no drug coverage. The bill waives the Medicare Part D premium for any month that a senior falls into the doughnut hole. During this time, the Secretary of Health and Human Services would be responsible for offsetting these monthly premium costs. It seems only fair to me. We are making seniors pay premiums, yet they do not qualify for the benefit. If they don't qualify for the benefit, let's absolve them of the premiums until they do, once again, qualify for the coverage.

There is another aspect of the doughnut hole that needs to be addressed. That is the fact that expenditures by other drug subsidiary programs do not count against beneficiaries' true out-of-pocket costs—this is an acronym, TrOOP: true out-of-pocket costs—during this lapse in Part D coverage.

Medicare beneficiaries on fixed incomes should not be penalized for seeking assistance from other programs that provide prescription drugs or drug assistance.

Here is the problem: You go into the doughnut hole. You are desperate for your prescriptions. The expenditures have to come out of your pocket to qualify again. You cannot go to a State agency, perhaps, that has a program because that spending will not be counted. I think that is another problem we have to address.

The Helping Fill the Prescription Gap Act—another proposal which I have cosponsored—would allow costs incurred by federally qualified health centers and patient assistance programs to count toward a beneficiary's annual out-of-pocket threshold. If they can get the help, qualify for the help, it should be counted, as they try to extricate themselves from the doughnut hole.

While these two bills are designed to help ease the burden of Medicare beneficiaries in the doughnut hole, serious structural problems of the program must also be addressed.

''D'' also stands for—besides ''doughnut hole,'' ''dire circumstances''—for the dubious claims the Administration has made about the plan's costs and the savings they would deliver for consumers.

The Administration's original cost estimates for the program were woefully inaccurate, and the benefit is now expected to top $700 billion in the first decade—$300 billion more than was originally advertised.

The fundamental premise behind the Medicare Part D benefit—that vigorous competition among private insurers would lead to lower drug prices—simply has not proven to be true.

''D'' also stands for the do-nothing Republican Congress that during this year's budget debate failed to pass a Democratic amendment that would give the Secretary of Health and Human Services the authority to negotiate the best deal for Medicare prescription drugs.

Instead of harnessing the purchasing power of over 40 million Medicare beneficiaries, the Administration plan called on private insurance plans to administer the program and to negotiate directly with the pharmaceutical companies on drug prices.

Here I think is the structural flaw in this overall program. In order to pull together the bargaining power of the largest number of seniors, the Government should be able to negotiate prices with pharmaceutical companies. The pharmaceutical companies have market power. Many of their drugs are patented and cannot be produced by anyone else. They can drive the price up.

The only way in a market you counter that type of monopolistic pricing power is by banding together as consumers so you have one entity negotiating for the consumers against one entity who controls the product. You will get a better price.

That is what we do in the VA system. The VA system has the legal authority to negotiate prices with drug companies. They have thousands and thousands of clients in their hospitals and in their outpatient settings, and they simply go and say: If you would like to sell us this significant volume of drugs, give us your best price. That is the way I believe we can get drug prices if not down, at least lower the escalation in costs. If we do not rein in price growth, the estimate of $700 billion over 10 years, I believe in a year or two, could be even higher.

Families USA conducted a survey that compared the lowest Part D prices with those the Veterans' Administration negotiated for the five most commonly prescribed drugs to seniors, and the variation in price is staggering. The VA can negotiate on behalf of our Nation's veterans while Medicare is barred from doing so—legally barred. It is part of this legislation: a rather large benefit to the pharmaceutical industry, to the detriment of taxpayers and seniors.

We can save money, and we can pass these savings on to seniors, we hope, but we cannot tie our hands. We have to be able to, as a large entity, as Medicare, negotiate these prices.

I want to work with the President and my colleagues in the Congress to strengthen Medicare for the long term. But the Administration has failed so far in their approach to Medicare reform.

Under the current Part D Program, drug companies hold all the cards. A recent New York Times article revealed that the shift of dual-eligible beneficiaries from Medicaid drug coverage over to the Part D Program has been a financial boon to drug manufacturers.

Previously, under Medicaid—a separate program which is a joint State-Federal program—seniors could qualify in certain cases for drug assistance. In the States, the Medicaid programs were negotiating with the pharmaceutical companies for prices. But with the passage of Part D, these dual-eligibles were automatically enrolled into the Medicare Part D Program. And what happened to drug prices? They zoomed out of sight. That, to me, is evidence that we can do much better, not only to protect seniors but to protect taxpayers.

Now, I believe the pharmaceutical companies deserve a fair return on their investment. They have invested in drug research and development. But allowing them to dictate prices for millions of elderly and disabled Medicare beneficiaries is a bad deal for the Federal Government and a bad deal for the American public.

These are just some of problems with Medicare Part D that must be addressed.

And while Part D is receiving most of the attention lately, seniors also face a 5.6-percent increase in Part B premiums for doctor visits and outpatient services in 2007, which will absorb a disproportionate amount of their Social Security cost-of-living adjustments—their COLAs. In fact, Part B premiums have almost doubled since President Bush took office, so seniors living on fixed incomes will now pay almost $1,200 just for these premiums alone.

This is another example of the growing squeeze, economically, on middle-income Americans. When you look at working Americans, young Americans with families, you have seen tuition costs go up extraordinarily so. You have seen health care costs go up, and many of these families do not have the benefits of the Medicare Program at all. Their costs are going up significantly. And gasoline prices are high. But incomes are not keeping up.

In fact, in real terms, inflation-adjusted terms, from 2000 to 2005, the median income of American families has fallen by $1,300. So you have falling income and increasing prices. It is this vice that is squeezing middle-income Americans.

And then, when you go to seniors, they are looking at some relief in Medicare Part D, but they are falling in the doughnut hole and finding that relief is elusive. They are also finding their Part B premiums going up. They are being squeezed hard also.

Now, through all of this, the Administration has proposed no substantive changes to the Medicare Program to help these beneficiaries. We have to take action. I hope in this Congress—although the days are dwindling down

to a precious few—but certainly in the next Congress we have to start looking seriously at reforming Medicare Part D, at making it more affordable for seniors and more affordable for taxpayers.

Let's make the ''D'' stand for what it should stand for: doing right by our seniors.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

OIL COMPANY ROYALTY PAYMENTS

Mr. WYDEN. Mr. President, all of us in the Senate know that each of the executive branch agencies have an inspector general. Last week, the inspector general at the Department of Interior made an extraordinary statement about the lack of ethics, in his view, at the Department of Interior. I have come to the Chamber this afternoon to discuss that and to bring to the Senate's attention some new developments on this issue.

What the Interior Department's inspector general, Mr. Earl Devaney, said last week is essentially that the Department has lost its ethical compass, and specifically the inspector general stated:

> Simply stated, short of a crime, anything goes at the highest levels of the Department of Interior.

Mr. Devaney pointed to a number of instances where he thought the Department was essentially defending the indefensible and was particularly troubled by the way the Department's royalty efforts—the efforts to collect money owed to the Federal Government—were going forward.

This morning, there are new developments on this issue which are particularly relevant to the Senate's work for the rest of the session. This morning, there was a news account documenting how for some time the nonpolitical auditors in the Interior Department have been raising concerns about underpayment of millions of dollars of royalties for oil and gas leases. What the article says is these auditors, who are nonpolitical, professional people, were overruled by their superiors when they wanted to go out and aggressively protect the taxpayers of this country. Some of these auditors, according to these news reports this morning, were so outraged by the Interior Department's failure to collect the full amount of royalties that were owed the people that they have filed False Claims Act lawsuits against the oil companies for defrauding the Government.

For example, one senior auditor identified an oil company scheme to reduce its royalty payments by apparently selling oil it extracted from Federal lands at a discount, thereby reducing the amount of royalty it paid to the U.S. Treasury. According to the news accounts, the superiors in that instance told the auditor not to pursue a collection of the oil company's underpayments. So the auditor felt that, to get any justice for the taxpayers, he had to go out and file a false claims lawsuit against the company responsible. Apparently, after he did that, he was subjected to retaliation by Interior Department officials, and then he was eventually terminated.

Several additional false claims lawsuits have recently been unsealed as well where, here again, auditors apparently uncovered underpayments but were not allowed to pursue collection of the full amounts owed to the Government. In each of these cases, the Federal Government declined to join the suit to recover on behalf of the taxpayers the money that oil companies allegedly were underpaying for their oil and gas leases.

If this were just one isolated case, you could say that maybe this was a person who just had a bad experience and they are angry at this point. But when you have a number of cases—a number of cases brought by nonpolitical professional people, people who are putting themselves at risk by bringing this out—that issue becomes too important for the Government to ignore.

I am bringing it to the attention of the Senate this afternoon because it goes to the heart of something I have been talking about for many months. In fact, months ago, I spent over 4 hours right in this spot trying to blow the whistle on the fact that it was time to stop stonewalling on this issue of collecting billions and billions of dollars in royalty payments that are owed by oil companies that are extracting that oil from land owned by the people of this country.

In this case, the Interior Department's inspector general has identified underpayments of just a tiny fraction of what is owed, but it seems to me this highlights how serious a problem this is. It also undermines the argument of the administration and some supporters of the oil industry that this money is going to be collected if the Congress just stays out of it and the executive branch goes after it on its own. That is one of the reasons that apparently we can't get a vote on an effort to collect these royalties here in the Senate, because some have said the executive branch is on this case, they are going to go after it, and they are going to bring in these dollars. Well, today, on the front page of one of the country's newspapers, we are seeing that not only is the administration not going after these royalty payments, but when independent, professional auditors go out and try to collect the money, not only is there no effort to support them, but they end up getting rolled when they try to bring these cases and collect money that is owed to the taxpayers of this country.

Under Federal law, oil companies are supposed to pay the Federal Government royalties when they extract oil or gas from Federal lands or offshore drilling. During the 1990s, to encourage drilling when oil prices were low, Congress provided relief to suspend royalty payments when prices were below certain threshold levels. It was, however, the intent of Congress that royalties would resume when the prices got back above those thresholds. But the leases that were signed during 1998 and 1999 failed to include the price threshold. As a result, a number of oil companies have been allowed to extract oil without paying the royalties that are owed under these leases, even when the oil prices went to record levels, as we saw this past summer.

The Government Accountability Office has estimated that the failure to include price thresholds in just those leases—just the ones I mentioned—could cost the Federal Treasury and the taxpayers $10 billion. What is more—and I think this will be truly eye-opening for the Senate and for the country—is that given the fact there is litigation pending surrounding this program, the loss to the taxpayers could perhaps soar to as much as $80 billion, according to an estimate by an industry source.

That is why I took the time a few months ago to stand on the floor of the Senate for well over 4 hours to make the case of reforming the oil royalty program, and that is why I have come to the Chamber today to bring to the attention of the Senate the concerns that are coming from the professional auditors.

When we debated it, or when I had a chance to raise the concern before the Senate on that occasion and others, I heard some saying that the Interior Department is going to go out and get these funds, they are going to make sure the taxpayers don't get ripped off. We have heard that argument advanced time and time again. It essentially has been stated that the Interior Department has begun the efforts to renegotiate those leases that are costing the $10 billion I mentioned and that Congress can only get in the way by trying to take legislative action.

Well, these news reports that have come out this morning make it very clear that Interior officials are not willing to address the problems with the royalty program on their own. When given the chance to pursue the issues raised by nonpolitical auditors working for the Department, according to this morning's report and these lawsuits, those high up in the Department blocked the auditors' efforts to collect the full amount owed to the U.S. Treasury and to taxpayers.

The Interior Department's negotiations with the oil companies on the 1998 and 1999 leases didn't even start until after Congress included language in the Interior appropriations bills to prevent companies from getting new leases unless they renegotiated their

old leases to include price thresholds. And the mediation process that is now underway between the companies and the Interior Department is nonbinding, so the companies can walk away at any point. In my view, that is why Congress ought to step in now and require the Interior Department to fix the royalty program through legislation.

The companies are doing everything they can to keep this issue from coming to a vote on the floor. That is what happened when I stood in this spot for more than 4 hours a few months ago. The oil companies knew on that occasion that if there was a vote here in the Senate to reform this program which is so out of hand—because even our esteemed former colleague who is from the State of Louisiana, former Senator Bennett Johnston, said the program is out of hand. If we had a vote that day, the vote would have been overwhelming to fix the royalty program. But we could not get that vote because there were some in the Senate who knew that the taxpayers would win, and they didn't want to have the vote. Now the session is about to end. The subsidies are going to continue. Based on this morning's report, auditors who are professional are being overruled by their superiors when they want to get those dollars owed to the taxpayers.

In my view, time is not on the side of those of us who want to put a stop to these senseless subsidies. The oil companies and their supporters know that the time left in this session is limited, so if they can keep the Senate from voting on these royalties, the legislation that the House adopted after my discussion in the Senate will almost certainly disappear when the Interior bill gets rolled into some kind of an end-of-the-session comprehensive bill called, around here, omnibus legislation.

The negotiations now underway with oil companies, that have the most generous deals of all, in my view, are going to get dragged out and delayed and postponed until the last legislative vehicle leaves town. Then the oil companies can walk away from the table, return to claiming those needless subsidies, and I assume fewer auditors will step forward in the future because they will see that there has not been a Congress backing them up.

We have seen the ''run out the clock scenario'' play out before. It happened, for example, on the issue of needless tax breaks to the oil companies. I was able to get legislation through the Senate Finance Committee to begin the effort to roll back some of the tax breaks that the oil companies were getting. These were oil companies getting breaks that even they said they didn't need when I asked them questions when they came before the Senate Finance Committee. But by the time we were done on the tax side, the oil companies had been able to water down much of what I had originally gotten out of committee, and they are still getting billions and billions of dollars in tax breaks that they themselves have testified before the Senate they do not need.

I believe, on the basis of the news reports that we saw this morning and the fact that the inspector general of the Department of Interior has said that anything goes with respect to ethics at the Interior Department, that this Senate ought to step in and protect the taxpayers of this country. This Senate ought to address this problem, which the inspector general has called ''indefensible'' and has, in effect, said the Department is still trying to defend it. My view is that if the Senate ducks this issue, it will be very difficult to explain to the American people how Congress can propose to allow additional billions of dollars of royalty money to be given away before it puts a stop to what already has gone out the door.

The distinguished Senator from Louisiana and my colleague who is my seatmate, the distinguished Senator from Louisiana, Ms. LANDRIEU, has sure made a good case to me about the suffering that folks in New Orleans and in her State have endured. But what has been troubling to me is how do you make a case for starting a new royalty program, a new offshore oil royalty program, when you are wasting money on the last one that got out the door? So I will continue to try to make the case, force the Senate to reform this oil royalty program, and I am going to continue to press this every time I think there is a new development in this case.

I urge my colleagues to read the important article by Mr. ANDREWS in the paper today describing the efforts of these auditors to try to make sure taxpayers do not get stiffed.

It is one thing if one person comes forward. It is another when you have a whole pattern of these cases, by people who are nonpolitical, who are professional people. We have had a bipartisan effort in the Senate to change this. I have been particularly appreciative that Senator KYL, Senator DEWINE, and Senator FEINSTEIN have joined me in past efforts. But we have not been able to offer that amendment and actually get a vote on a bipartisan proposal that would finally clean up this program and protect the taxpayers of this country.

As a result, some of the most profitable companies in the country are continuing to get billions and billions of dollars of royalty relief and giveaways that are paid for by the taxpayers of this country.

It was one thing to start that program back in the days when oil was $19. It is quite different when you have royalty relief, taking hard-earned dollars out of the pockets of our citizens when that relief clearly is not necessary. I urge colleagues in the Senate, on both sides of the aisle, to join me in these efforts to clean up this program, stop the outrageous giveaway of taxpayer money, and take a good look at this morning's report. The combination of what the inspector general has said and what these independent auditors have said this morning, in my view, is too important to ignore. The Senate ought to step in and make sure the taxpayers' interests in this country are protected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. OBAMA. Mr. President, I rise to speak about the Secure Fence Act. The bill before us will certainly do some good. It will authorize some badly needed funding for better fences and better security along our borders, and that should help stem some of the tide of illegal immigration in this country. But if we think that putting up a few more miles of fence is by any means the whole answer to our immigration problems, then I believe we are seriously kidding ourselves.

This bill, from my perspective, is an election-year, political solution to a real policy challenge that goes far beyond November. It is great for sound bites and ad campaigns, but as an answer to the problem of illegal immigration, it is unfinished at best.

Yes, we need tougher border security and stronger enforcement measures. Yes, we need more resources for Customs and Border agents and more detention beds. Democrats and Republicans in both the House and the Senate agree on these points. But immigrants sneaking in through unguarded holes in our border are only part of the problem.

As a host of former Bush immigration officials and Members of Congress said in today's Washington Post, we must ''acknowledge that as much as half of the illegal-immigration problem is driven by the hiring of people who enter the United States through official border points but use fraudulent documents or overstay visas.''

This serves as a reminder that for the last 15 years, our immigration strategy has consisted of throwing more money at the border. We have tripled the size of the Border Patrol and we strengthened fences. But even as investments in border security grew, the size of the undocumented population grew as well. So we need to approach the immigration challenge from a different perspective.

This is why for months Democrats and Republicans have been working together to pass a comprehensive immigration bill out of this Congress because we know that in addition to greater border security, we also need greater sanctions on employers who illegally hire people in this country. We

need to make it easier for those employers to identify who is legally eligible to work and who is not. And we need to figure out how we plan to deal with the 12 million undocumented immigrants who are already here, many of whom have woven themselves into the fabric of our communities, many of whom have children who are U.S. citizens, many of whom employers depend on. Until we do, no one should be able to look a voter in the face and honestly tell them that we have solved our immigration problem.

A model for compromise on this issue is in the Senate bill that was passed out of this Chamber. In the new electronic employment verification system section of that bill that I helped write with Senator GRASSLEY and Senator KENNEDY, we agreed to postpone the new guest worker program until 2 years of funding is made available for improved workplace enforcement. We could extend that framework and work together to first ensure the money is in place to strengthen enforcement at the border and then allow the new guest worker program to kick in. We can do all of that in one bill, but we are not.

So while this bill will probably pass, it should be seen only as one step in the much greater challenge of reforming our immigration system. Meeting that challenge will require passing measures to discourage people from overstaying their visas in the country and to help employers check the legal status of the workers applying for jobs.

It seems it was just yesterday that we were having celebratory press conferences and the President and the Senate leadership were promising to pass a bill that would secure our borders and take a tough but realistic approach to the undocumented immigrants who are already here.

Today that promise looks empty and that cooperation seems like a thing of the past. But we owe it to the American people to finish the job we are starting today. And we owe it to all those immigrants who have come to this country with nothing more than a willingness to work and a hope for a better life. Like so many of our own parents and grandparents, they have shown the courage to leave their homes and seek out a new destiny of their own making. The least we can do is show the courage to help them make that destiny a reality in a way that is safe, legal, and achievable. So when we actually start debating this bill, I hope the majority leader will permit consideration of a wide range of amendments.

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

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

The bill clerk proceeded to call the roll.

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

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

Mr. BROWNBACK. Mr. President, I rise to speak on the pending legislation, the Secure Fence Act of 2006. I want to address this issue. I have worked on the immigration issue all this year. It has been a very difficult issue. It has been a very difficult discussion. It has been one that has involved a great deal of the time of this body.

I serve on the Senate Judiciary Committee. We worked a long time to try to come up with some form of comprehensive legislation that we put forward. It was far from perfect, even as it was passed. Before it passed, people were questioning this provision and that provision. You look back on it and say: Well, I think that is a good question, and I think that is a good point, and it is something we need to deal with in conference to be able to address those concerns and topics.

I think we could have come out with a good conference bill, but the volatility of the subject, the lateness in the session, the closeness to the elections really has just not made it possible for us to move forward on comprehensive immigration reform, as the President has requested, as most people in the country look at it and believe in some form we need to deal with immigration in a broad fashion.

Yet almost everybody I have talked with on the immigration issue—a number of whom are passionately involved in the topic—virtually everybody who looks at it will say: OK, let's first get the border secure. First, let's stop the flow of illegal immigration into the United States, and then let's talk about comprehensive reform or you get a number of people saying: I don't think you are serious at the Government level of dealing with securing the border. When you show me that, then let's move forward with comprehensive reform because I do recognize we have 11 to 12 million people here in an undocumented status. We do have a need for workers in a number of places across the United States, that there are legitimate concerns, and the best way for us to move forward is in some fashion dealing with all the problems that are associated with this issue.

We have a history in the United States, in the last 20 years, of dealing with this problem on a piecemeal basis. In 1986, there was an amnesty bill, but it did not deal with border enforcement at that point in time. That did not work. In 1996, we had an enforcement-only bill, but it did not deal with the future flow or did not deal with the people who were here in an undocumented status at that point in time. We come, then, to 2006.

It is an interesting progression in the numbers as well. In 1986, we had roughly 3 million here in an undocumented, illegal status. In 1996, 10 years later, we had 7 million here in an illegal, undocumented status. We tried amnesty. We tried enforcement in 1996, and we had 7 million who were in an undocumented, illegal status in the United States.

In 2006, we are at 11 million to 12 million. So we have tried this on a piecemeal basis before, and it just has not worked. Whether you come from either side of the argument, it has not worked on a piecemeal basis. What I am hopeful we can do in passing this legislation—in the secure fence area; and I do support this legislation—is that we can deal with the precursors that a number of people have identified, saying, first, we really need to secure the border and show the country we are serious about securing the border. Then let's move forward with the comprehensive legislation.

What this, I hope, will be is the first step in dealing, in a comprehensive, long-term fashion, with our failed immigration system and huge immigration problem. We need to do this, and we need to do this first.

I was hopeful we could do this in one whole package and move it on forward and see the practicality of that whole package, that the first thing you would do is to secure the border—and the President has already dispatched National Guard troops to the border. The border enforcement efforts have already stepped up and they are showing fruit from their efforts. We are stepping up and doing this now.

I was hopeful we could do this as a comprehensive piece of legislation, recognizing the practicality that, first, the border would be secure because that is the thing you could do first, and then you could deal with a future flow guest worker program that would take you several years to implement. And you could deal with those who are here and in an undocumented status? That would take some period of time to deal with as well.

We are not going to be able to, this legislative session, get that broad piece of legislation through. Yet I think this shows to people in the country deeply concerned about our border—as I am, as we all are in the Congress and in this country—is that we are serious about dealing with this issue. And I think there will still remain the political impetus to deal with this on a broad-scale basis, but first we step up and do first things first and we secure the border and we show to the country we are, indeed, serious about securing the border, and we are doing everything we can to secure the border.

It will not permanently seal the border. This effort, the Secure Fence Act of 2006, will not achieve that. It is going to be very difficult to completely secure the border, but this bill will take a strong step forward for us.

I also say to my colleagues who believe we should just do enforcement or we should do enforcement first, that we then, in the future, need to take the next steps necessary to deal with this in a comprehensive fashion.

I think it is going to be very important that, OK, yes, we do this, and we move this forward, but then we need to move forward with the rest of it. What do we do with those who are here in an

undocumented status? How do we do more on interior enforcement at work sites? What do we do on a guest worker future flow program? So that we will deal with this in a totality, so that as to those who are concerned we are just going to do this and not deal with the rest of the system, we can say: No, part of what we are talking about and doing is securing the border first. We do that we are going to hold true to what we said. Yes, we do that. And, then, let's talk about how we can move forward in the comprehensive fashion because that is the way—and the only way—I think you actually deal in some sort of long-term fashion with the very real problems we are facing and that really a number of countries around the world are facing—certainly the Europeans are facing—in a major fashion.

It seems to me that one of the things that happened after the fall of the Berlin Wall, in particular—some time before but certainly after—was people started moving to opportunity. They started moving to where they felt they could have a better life for themselves and their families. It is certainly an impetus I recognize, and it is hard to fault people for that. You want it to be conducted in a legal fashion and to see that national sovereignty rules are obeyed.

People in this country who talk about security first, when they talk with me about that, they are not against immigration. They want it to be legal. They want the system to be a legal system, and then we can work with it. But they don't want an illegal system that has devolved or, as we have seen, broken down in this country.

I think this is an important first step forward for us in dealing with this problem in a comprehensive fashion. It is not what a number of us had worked for in getting a comprehensive bill. I think it is the first step in us getting comprehensive legislation moving forward and convincing the country that we are serious about securing the borders so that we can do comprehensive reform of an immigration system that is so desperately needed.

Mr. President, I have worked a long time and for a number of years on human rights issues and dignity of the individual, and I believe fundamentally in my bones about this. I believe it is important and it is a big statement, what a country does in taking care of the least of us, including the widows and orphans. In those statements, it also says that the foreign are amongst you, citing those who are in a difficult situation. They are in a hard situation. We need to help them and work with them in any way we can. We need to be able to craft a legal solution to do that. I think it is important. It is also a statement of the nature of our society and our Nation that we do that. We need to reach out to those in the most difficult circumstances in this country. This is a step forward, but it is not and cannot be the final step.

I remind the individuals who have pushed this route forward that we are taking you at your word as well, saying first secure the border and then we go to comprehensive reform. We are going your path. This would be the path that you said is the way to go. We cannot just stop here and say: OK, we have done that, and now we are not going to talk about the rest of the issues. We need to see this on through to what people had said was the right route to go—first securing the border and then dealing with the rest of it. We are going that path, your path, forward.

I hope we can move this through and then continue the discussion on how we move forward with comprehensive immigration reform. I believe it is critical for us to do that for the future of the Republic.

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

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

HONORING OUR ARMED FORCES

ARMY STAFF SERGEANT SEAN LANDRUS

Mr. DEWINE. Mr. President, I rise today to remember a fellow Ohioan, a young man who lost his life in Operation Iraqi Freedom. Army SSG Sean Landrus died on January 29, 2004, of wounds he suffered when a roadside bomb exploded next to his convoy in Iraq. He was 31 years old.

Sean Landrus will be remembered for many things and in many ways. He was an exceptional soldier who enjoyed and took pride in military life. More than that, he was a loving son, brother, husband, and father, a man who was completely dedicated to his family.

Sean was born in January of 1973 in Painesville, OH, to loving parents Ken and Betty Landrus. The youngest of six children, Sean was very close to his entire family and remained so throughout his life. Sean attended Ledgemont High School where he excelled in football, basketball, and track. A highly competitive athlete, Sean hated to be taken out of any game, even if he was injured. According to his mother Betty:

> One of the managers said that he just didn't play the same without Sean because he was the spark plug.

Sean carried that dedication and competitive spirit with him throughout all that he did. After graduating in 1991, Sean attended Kent State University while working for C&K Industrial Service, an industrial cleaning company in Cleveland. Although she didn't enjoy it at the time, Betty now fondly recalls how grubby her son would be when he got home from work. Despite the dirt, she loved her ''iron teddy bear.''

On December 2, 1995, Sean married his high school sweetheart Chris, and they made their home in Thompson Township. Sean reported for boot camp just 1 month later. He was assigned to Company B, First Engineer Battalion, First Brigade Combat Team, First Infantry Division. Sean spent 8 years in the Army, including deployments to Bosnia and Kuwait.

Sean was a devoted family man who found it difficult to leave his wife Chris, his son Kenneth, and daughters Khrista and Kennedy for his overseas tours. He was very sorry to be away from them for that period of time. His deployment to Iraq was particularly emotional. Kennedy was then just a few weeks old. At the time, Sean and his family were living in Fort Riley in Kansas. Sean was offered a desk job at the base, but he declined it in favor of going to a combat zone.

In the words of his mother Betty, ''Sean just hated being behind a desk.''

In September 2003, Ken and Betty drove to Fort Riley both to meet their new granddaughter and to say good-bye to their son before he left for Iraq. Because Sean was busy making preparations for deployment, they weren't able to see him very often. But for Sean, it was important that he made sure everything for which he was responsible was in the right order. That is simply the kind of man he was. Betty and Ken woke up very early and stayed up very late to spend as much time with him as possible. Sean found it difficult to leave his family again, and as he said in his own words, ''It is my job.''

Sean's deployment to Iraq would have been his last. Before going overseas, he told his family that it would be the final time he went away. He just didn't want to leave them anymore. Unfortunately, Sean's convoy was ambushed after a roadside bomb exploded next to the truck he was in. Two days later, he passed away from his injuries.

Mr. President and Members of the Senate, that day our Nation lost a great soldier. The Landrus family lost a loving brother, son, husband, and father. Perhaps most heartbreaking, Sean was never able to hear his youngest daughter's first words: ''Da Da.''

As Ohioans have done so often in the past, the members of Sean's community rallied around the Landrus family to offer their support. During Sean's final trip home to the Cleveland area, color guards from the area's veterans posts lined the processional route. Others wishing to pay their respects gathered in freezing temperatures to wave American flags, and nearly 400 people crowded into St. Patrick Catholic Church to celebrate Sean's life. County flags were flown at half-staff and a resolution honoring Sean was passed at the Thompson Township trustee meeting. His death was a loss felt by the entire community.

SSG Sean Landrus was a great man. I know he will live on in the hearts and minds of all those who were privileged to have known him. My wife Fran and I continue to keep the Landrus family in our thoughts and prayers.

MARINE CORPORAL BRAD SQUIRES

Mr. President, I rise today to pay tribute to Marine Cpl Brad Squires, a fellow Ohioan from Middleburg Heights, who lost his life on June 9, 2005, as a result of an explosion that occurred during combat operations. He was assigned to Marine Forces Reserve's 3rd Battalion, 25th Marine Regiment, 4th Marine Division, from Akron, OH. Brad was the son of Donna and Bruce Squires, husband of Julie, brother of Chad and Jodie, and uncle of Chad, Cassidy, and Alexis. He was only 26 years old at the time of his death.

Brad graduated from Berea High School in 1997, where he played on the football team. He was studying to be a firefighter and was taking classes at Lorain Community College. He was also an aspiring supermodified driver who entered his first race in 2004 with the Midwest Supermodified Association. Brad joined the Marines in 1999, and in February 2005 he was sent to the Al Anbar province in Iraq, where he served 4 months with his battalion before his death.

Brad Squires was loved by everyone who knew him. Again and again, I have read about what a good friend he was. He was always looking for ways to make his friends and family smile, and was constantly seeking new adventures. Brad's aunt, Donna Dirk, described him as ''fun-loving, very family-oriented, and really a nice kid.''

Katie Gorton remembers Brad's wonderful personality. She made the following comments after attending his wake:

Brad certainly is a ''hometown hero,'' but more importantly, an American Hero . . . all of us there that night looked at pictures and remembered his mischievous grin, his contagious laugh, and his charismatic personality. We were able to remember Brad the friend, Brad the cousin, Brad the funny guy from math class, Brad the guy the underclass girls had a crush on, Brad the son, etc. . . . and for some of us, it was the first chance we had to meet and remember another side of him . . . Brad the Marine. I'd like to think that he knows how many lives he's touched now, and is able to be with us all now through miracles.

Brad had a strong sense of duty to family and friends from childhood, always wanting to help protect others from harm. As a young boy, he knew the difference between right and wrong. Middleburg Heights' mayor recalls what must have been a very special day for the young Brad. ''I probably handed Brad Squires his safety town certificate when he was five,'' he said. And Jessica Sutherland of Lakewood remembered a time when Brad rescued her from the bullying of a bigger boy. According to Jessica, for years afterwards Brad would blush when she thanked him for the day. She writes:

For that small good deed, he's always been a hero to me, so I'm not surprised he died a hero . . . God bless Brad Squires.

Kelli Kusky echoed these remarks about Brad's selfless nature. She said:

. . . He was always helping people; I remember the time that his neighbor had a heart attack and Brad kicked in his air conditioner and saved the man's life. He made no big deal out of it, just said that he knew what he had to do. And I know that Brad did what he knew he had to do in Iraq. I don't think he would of had it any other way . . . He meant A LOT to a lot of people and left long lasting impressions on everyone that he met!

Clearly Brad was a hero to many throughout his life. And he did indeed love his Marine Corps. According to his wife, Julie, ''Brad loved his Marine Corps and would jump at a chance to tell everyone about it.'' Nate Ickes of Akron also commented on Brad's military service. He said:

My thoughts and prayers go out to everyone that knew and loved Corporal Brad Squires. I am so proud to have served with him and he will be missed very much. Brad had a way to make everyone laugh, even if there was nothing to laugh about. He was a fine Marine that any one of us from Weapons Company would have been honored to work with. Brad was a man who would never let you down, nor would he stop until the job was done! Corporal Brad Squires will be forever missed but never forgotten. Brad will always be a brother, friend and Marine of Weapons Company 3/25. . . .

Brad deeply loved his family, and was deeply loved by them. He married his wife Julie in November 2004. They had to move up the wedding date when Brad learned that he would be deployed in January. Sadly, their family and friends would return to the same church 7 months later for Brad's funeral. Brad was looking forward to starting a life with his new bride and spending time with the rest of his family.

Brad's sister Jodie wrote these words to Brad:

My brother, my friend, my hero that will never be forgotten. I love and miss you so much, Brad—26 years of great memories is what I hold close to my heart. On behalf of the family, I would like to thank everyone for their support.

Brad's brother Chad echoed these sentiments, saying:

My brother Brad is a hero, he died for what every American enjoys in life—their freedom.

Brad will also be deeply missed by the numerous community members who knew and loved him. Numerous mourners attended his memorial service at St. Mary's Catholic Church, where he and Julie had been married 7 months earlier. More than 120 motorcycles and 200 cars participated in the procession to the cemetery, while hundreds of people with flags watched them pass. Tim Ali, a family friend, aptly expressed a fitting sentiment: ''We have him home.''

In honor of their brother, Brad's siblings Chad and Jodie have started a memorial fund to carry on his legacy. Donations to the Corporal Brad Squires Memorial Fund will help build and preserve a memorial on Old Oak Boulevard in Middleburg Heights, dedicated to all the men and women in Ohio who have given their lives to protecting our freedom. You can learn more about this memorial by accessing the Web site at www.bradsquires.net.

I would like to end by including a message that Donna left for her son one year after his death:

Brad, not a day goes by that you're not in our thoughts and prayers and how we wish you could be here and how we wish we could see you again. When I think of you I think of your love for life and your beautiful smile. You always had a mystical way of brightening up someone's darkest day. We experienced life together, through good and bad times. I know we will be together in eternity and you are in a better place but we all miss you deeply. I pray to God that He will comfort us and give us all strength. Until we're together again, have a great time in heaven. . . .

The overriding theme of Brad Squires' legacy is the number of lives he touched while he was on this earth. So many people have remarked how Brad had positively impacted them. With his death, we have lost a great man. Brad loved his family, loved his country, and loved his commitment to the Marine Corps. He will never be forgotten. My wife Fran and I continue to keep the family and friends of Cpl Brad Squires in our thoughts and prayers.

Mrs. CLINTON. Mr. President, as I have often reminded my colleagues, New York State is an agricultural State. We are home to 36,000 farms, and our farmers are world-class producers of dairy products, apples, grapes, honey, maple syrup, great wines, and other fruits and vegetables. New York is truly a land of milk and honey—and so much more. Agriculture contributes almost $4 billion to New York's economy. More than 1.2 million people work on farms or in farm-related jobs.

But farmers in New York who are contributing so much to our economy and way of life—in a plight shared by the agricultural industry across the country—face an incredible challenge to maintain a workforce that does the difficult job of harvesting crops and bringing our State's bounty to the marketplace.

That is why I continue to fight for a solution. And as we consider the Craig and Feinstein amendments, I hope we can keep these farmers—many of whom I have met and worked closely with these past 6 years—in our focus and put the politics and partisanship aside. There are those in this Chamber who have strong disagreements over how to pursue comprehensive immigration reform. But I hope that these proposals to stand by our family farmers and agricultural industry, both struggling to find labor, are not held hostage to the larger debate.

Our farmers have long desired a legal, stable workforce and have been calling for reform. But now they face the prospect of crops dying in the field or on the vine—or worse, their farms going out of business because of a shortage of workers. We have had the best apple crop in years in New York, but the lack of labor has left apples unpicked on the trees. We are in the midst of the harvest season in New York State, and the 36,000 farm families face the real risk—this year—of

losing their livelihoods if we cannot ensure a legal, stable workforce for them. In fact, according to the Farm Bureau, New York's agricultural industry stands to lose $289 million with fruit and vegetable growers estimated to lose more than $100 million without solving this problem.

Farmers have shared with me their stories. Many feel abandoned to election-year politics, partisan wrangling, and a Government that does not recognize their hardship. Our farmers' crops are dying in the fields. We cannot allow a real solution to die on the vine.

In recent meetings with scores of New York farmers from across the State, it was stressed to me that the current worker program in place—the H–2A legal guest worker program is antiquated, unworkable, and woefully inadequate. Couple this with the recent increases in enforcement by the Social Security Administration and the Bureau of Immigration and Customs Enforcement, and the result has been major disruptions to our farms.

I join with many of my colleagues in this Chamber who believe that workplace enforcement is imperative. But as we all know, our current laws are broken, and enforcement has been inadequate and haphazard at best. We know this because we have been debating reforms for months, some of us for years. These increases in enforcement have left our farmers reeling. Day to day, they do not know whether their labor force will show up for work, whether their workers have been apprehended by Immigration and Custom Enforcement or whether they have simply fled the area out of fear of apprehension. Whatever the cause, the result is our farms are being paralyzed.

It is worth noting that the farmers I have spoken with are trying in good faith to obey the law. They get labor referrals from the New York State Department of Labor. They inspect work documents to ensure that they have a legal workforce. Our farmers are on the losing end of a broken system, and it is up to us to fix it.

For several years, a broad, bipartisan coalition of Senators has advocated for passage of the Agricultural Job Opportunities, Benefits, and Security Act, AgJOBS, and other legislative reforms that would provide our farmers with the long overdue relief they need to maintain a workforce.

The AgJOBS bill would not only expand the current H–2A program, it would also modernize and streamline its procedures, making it easier for our farmers to use. AgJOBS would also provide agricultural employers with a stable labor supply by giving many undocumented agricultural workers the chance to earn the right to become legal immigrants.

The AgJOBS compromise was reached after years of negotiations, and it represents a unique agreement between farmworker labor unions and agricultural employers. It has the support of a broad coalition of organizations, including major business trade associations, Latino community leaders, civil rights organizations, and religious groups.

Moreover, AgJOBS will promote our security by helping our Government identify persons inside the United States who are here without authorization. By encouraging farm workers to come out of the shadows, we can stand by family farms while refocusing our limited resources on real threats to our security.

I applaud the leadership of Senators CRAIG, KENNEDY, FEINSTEIN, and BOXER on this issue. I support the Craig and Feinstein amendments to this bill because we share a belief that we can tackle this crisis.

We are in this Chamber debating amendments that will serve our farm economy and serve to make our immigration system fairer and more workable. What I hope is that we can put politics aside and have a vote, up or down, yes or no. We owe it to our farmers, workers, and consumers to pass a bill that will help save our farms and agricultural industry.

Mr. LIEBERMAN. Mr. President, with so many important questions facing this Senate, and so little time left before we adjourn before the fall elections, I am dismayed that we are considering this so-called Secure Fence Act.

I say this as a supporter of the bipartisan comprehensive immigration reform we passed in May.

I say this as one of many who followed the leadership of Senators FRIST and REID, SPECTER and LEAHY, MCCAIN and KENNEDY, when 62 Senators voted for true reform legislation.

And now look where we are. After a great success, the Senate is now considering abandoning that truly comprehensive and bipartisan solution to a festering national problem and replacing it with an incomplete, ineffective response to our broken immigration system.

How did we come to such a low point this fall, after such promise this spring? I will tell you how. The opponents of reform obstructed and delayed. They refused to enter into a conference—even to discuss the possibility of reconciling House and Senate legislation.

Instead we watched the opponents of reform roll out a farcical road show of hearings designed to distort the facts, confuse the issues and roil the waters to create a national anxiety that need not exist.

With that out of the way, these same obstructionists have now reintroduced large portions of the punitive and ineffective House legislation the Senate already rejected earlier this year. Without deliberation or debate they are attempting to add their measures onto appropriations legislation already in conference—contradicting the views of a majority of Senators.

One of those measures sent from the House is this legislation to build fences across specific sections of our southern border. The cost of these fences is conservatively estimated at $2.2 billion but could easily double. And for this price America will be no more secure, its borders no more protected, and illegal immigration still out of control.

As the ranking Democrat on the Homeland Security and Governmental Affairs Committee, I am more focused on protecting Americans from harm than I am on any other issue. Effective border security is a vital national priority—not just to stop the flow of illegal immigration into this country, but also to keep terrorists and criminals from entering the U.S. through our airports and seaports, and across our land borders. We will continue to push for better border security, but this is not the way to do it.

The money spent on this bill could be used in much more effective ways to bolster our borders and strengthen our security. In fact, Congress has already significantly expanded funding for border security—for Border Patrol officers, detention beds, and new equipment and technology.

This year the Senate already provided the Department with funds to build sections of fence where it makes a difference—in heavily populated areas. But an additional few hundred miles of fence along small portions of our vast desert border will do virtually nothing to stop illegal immigration.

Building a few more sections of fence and saying we have solved the problem of illegal immigration doesn't make sense.

The President said it himself in a speech days before the Senate passed its immigration bill in May.

He said:

> An immigration reform bill needs to be comprehensive, because all elements ofthis problem must be addressed together, or none of them will be solved at all.

That is what the Senate did. And we are on the verge of losing this historic opportunity to address this border challenge the American people expect us to fix.

Let's remind ourselves of what is contained in the Senate's immigration bill—and let's be proud of our work.

The Senate legislation authorized extensive enhancements of border security and immigration enforcement—many more Border Patrol officers, immigration agents, detention beds, new technologies, and new legal authorities.

The Senate bill cracks down on unscrupulous employers who would hire and exploit undocumented workers, by creating verification systems that would leave those employers no excuse for hiring the undocumented and punish them if they do.

But what made the Senate bill so forward looking was our bipartisan decision that an enforcement-only bill would not solve the problem of illegal immigration.

To control future immigration, we also created a guest worker program

that will channel future immigrants into legal avenues, where they will be screened to make sure they pose no threat to public safety and will not take jobs from American workers.

And for immigration reform to work we had to squarely face the fact that there are approximately 11 million undocumented immigrants already working in the United States. Many have lived here for years and have children who were born in this country and are American citizens.

We wisely decided that criminalizing these 11 million people was not going to happen. We couldn't jail that many people. We couldn't deport that many people.

We knew that the vast majority of undocumented immigrants living in this country came here to work hard, support their families, pay their taxes and obey the law.

Those are the kind of people we want here.

Yes, they are here illegally and that can't be treated lightly. And we didn't. The Senate bill does not offer amnesty or a free pass to anyone. If you want to stay here, you have to earn it.

Under the comprehensive, bipartisan Senate bill, undocumented immigrants who have been present in the U.S. for at least 5 years would be able to apply for a work visa lasting 6 years. They would also pay thousands of dollars in fines, clear background checks, and must remain gainfully employed and lawabiding.

They would go to the back of the line behind those already waiting for their applications to be judged.

After 6 years of working in the U.S. on a temporary visa, an immigrant could apply for permanent residency—a process that takes 5 years—provided he or she paid an additional fee, proved payment of taxes and could show knowledge of English and United States civics.

Only after a combined period of 11 years could the immigrant apply for U.S. citizenship.

Those who have been here betwee 2 to 5 years would have to apply through a stricter guest worker program, and would have to wait even longer before they could win legal residency.

We should have rolled up our sleeves long ago to pass realistic and compassionate immigration reform. And the Senate finally has. But the House has shirked its responsibilities with its enforcement-only focus.

Now, instead of doing our constitutional duty and hammering out our differences, cogressional leadership has declared that reform is dead for this year and instead says the best we can do is build fences in the desert and create a mirage of security.

This is not sensible or right. But we must not give up. We must fight—and I will continue to fight—for true reform.

We must do the job the American people sent us here to do—solve the tough problems without falling into divisive, partisan posturing.

That is why I hope and expect that we will be allowed to offer true immigration reform amendments to this bill. If we are not allowed to offer immigration reform amendments, I will oppose cloture on this bill, and I hope all my colleagues who support reform will do the same.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I rise to speak about the pending bill before S. 6061, the Secure Fence Act of 2006. This bill, which was approved the House of Representatives last week, would require the Department of Homeland Security to build a 700-mile wall on the United States-Mexican border.

The bill goes further. The bill also provides that we shall start a study as to whether to build a similar wall on our borders with Canada. That, of course, is a much longer border and a challenge which has not really been thought through. The northern border study is part of the bill, along with this new 700-mile wall, or fence, being discussed.

Earlier this year, the Senate spent the better part of 3 months debating immigration. The process began in the Judiciary Committee, on which I serve, in early May. We had a series of substantive debates in which we considered dozens of amendments, including several maritime committee meetings on very contentious issues. At the end of the process, we approved a tough, comprehensive bill with a strong bipartisan vote. There was a similar process on the floor of the Senate.

We debated the immigration bill for 1 month. We had over 30 rollcall votes on amendments. It is rare for Congress to devote that much time and energy to one bill. I think that was reflected in the bipartisan bill that we approved. It is far from perfect. It was a compromise. There are sections in that bill I don't support. I voted for it because I thought it was the best effort we could make at that moment to move this process forward.

The Senate bill takes a comprehensive approach that is tuff but fair.

First, we deal with enforcement by improving our border security by increasing manpower and increasing new technology and devising new means to stop the flow of illegal immigrants into America. We would crack down, as well, on employers.

Understand that the magnet which draws those who illegally immigrate to the United States is the opportunity for a better life through work. For most of these people, they come here to take jobs all across our country. I have seen them in my home State of Illinois and Chicago. It is hard to visit a restaurant or hotel without seeing many people there who are working very hard for long hours at low pay, and many of them are undocumented.

We believe that if you are really going to have enforcement work, it isn't just a matter of stopping them at the border; it is a matter of drying up the magnet that draws them: the employment, those who would employ undocumented people. Our bill speaks to that.

The President has said that he supports this concept. I agree with him. We need a tamper-proof ID so that those presenting themselves for employment are clearly identified. Currently, a person shows up with a name, a phony Social Security number, and goes to work. That day has to end.

If you are talking about enforcement, it is not just a matter of what happens on that border—it is a matter of what happens in the workplace in New York, in Chicago, in Los Angeles, and all across America.

This bill which was sent to us by the House does not address the employer sanctions. We know what has happened under the Bush administration. It is rare if ever that an employer is held accountable for hiring illegal aliens. Unless and until we can engage the employment issue with the border security issue, we are going to have a difficult time controlling the flow of illegal immigration.

This bill talks about a fence. It is not the first time it has been brought up. In the comprehensive immigration bill which we passed, there was a provision for constructing a 370-mile, triple-layered fence and 500 miles of vehicle barriers along the southwest border. I question whether this is going to work. I have my doubts.

Consider just the obvious. Our southern border is more than 2,000 miles long, and we are building 700 miles of fencing or barriers. I have to say that leaves a lot of area uncovered. I guess it is not a leap of imagination to believe that people will find a way to go around this wall, around this fence, or under it. It is going to happen. I think to place all of our confidence in this sort of basic barrier may go too far.

But the provision was in our bill. It was an enforcement provision for the border which included 370 miles of tripled-layered fence and 500 miles of vehicle barriers.

Then, on August 2, the Senate appropriated the money to build it, $1.8 billion for fencing and barriers authorized by the Senate bill. The measure was approved on a strong bipartisan vote of 94 to 3.

Despite my scepticism about the fence, my belief was that this moves us forward. If this fence moves us forward in the debate about comprehensive immigration, I am going to join in that effort even though I start with scepticism about whether this is really going to do everything we are told.

So we are dealing with a fence and barrier that has already been authorized and funds have been appropriated by the Senate. Instead of going to conference with the House and Senate and sitting down and working out their differences between the two bills, the House of Representatives held hearings around the United States, hearings which were designed, I am afraid, to move this issue to the public forefront in not a very positive way; in some respects, a very negative way. In that effort, they came up with the inspiration for a new bill. In other words, they walked away from their earlier bill which dealt with immigration enforcement in very harsh terms, saying that those who were here illegally would be deemed felons, aggravated felons under Federal law, and anyone who helped them would also been charged with the crime.

Now they are off on a new approach—this so-called 700-mile fence approach. It is hard to keep track of what is going on in the House of Representatives when it comes to immigration. It changes almost on daily or weekly bases.

Before they will consider sitting down with the Senate and working out an agreement on a bill, they send us a new bill.

That is what has happened here. I wonder why at a time when we are facing so many serious issues in this country we are engaged in such political posturing when it comes to an issue of this importance.

Wouldn't it have been better for us to spend this week, instead of wasting and burning off the hours on the secure fence bill—the second House immigration bill—focus on a national energy policy, talk about ways that we can reduce our dependence on foreign oil so that Americans can have some security knowing that this economy will grow with good, reliable energy sources, and that we would not be subsidizing those who send oil to the United States and then turn around and use the hundreds of millions of dollars we send to finance our enemies and terrorism?

This is not really about immigration. It is about something else. This is about an effort by the Republican leadership to find just the right issue for an election that is just a few weeks away.

This morning, the New York Times tells us that the American people, when asked, have a new low opinion of Congress. It has been 12 years or more since so few people had a positive view of their Congress. This morning, they reported that 25 percent of the American people have positive feelings about the Congress. When asked why, they said Congress is dominated by special interests; it is dominated by an agenda that has no importance to the lives of most American people; and it seems like all they are doing is political posturing for the next campaign.

Many of those criticisms are sadly true.

This bill has been tied up for the last week and fits right into the category of political posturing.

The earlier immigration bill of the Republican-controlled House of Representatives, which would have made felons out of many hard-working people and would also have made felons out of many nurses and social workers and clergymen who were trying to help those who are here undocumented—that bill has been abandoned. Now they are trying to find a new bill, a new wedge issue for the November 7 election.

I believe we need stronger enforcement, but we need to be smart in the way we do it.

Let me give you some numbers which will give you an indication of what a smart approach might include.

In the last decade, we have doubled the number of Border Patrol agents that are at our southern border and other borders where people might cross, and they have spent eight times as many hours patrolling the border in the last 10 years and an 800-percent increase in the manhours spent patrolling our borders.

During the same period of time that this dramatic increase in manpower at the border has occurred, the number of undocumented immigrants coming into the United States has doubled.

As Attorney General Gonzales recently noted, ''Some believe we should be focusing solely on border security.'' He said, ''I don't think you can have true security without taking into account the 11 to 12 million who are already here.'' We need to know who they are . . . and take them out of the shadows.

Our bill, our comprehensive bill, sought to deal with this immigration issue in a sensible, smart, tough approach that will deal with enforcement as well as dealing with the reality of those who are here.

Now the House of Representatives, under the control of the President's party, has refused to sit down with the Senate and negotiate in a conference committee. They apparently prefer tough talk to solutions.

Now we have a 700-mile wall that is now being proposed. It keeps going up in the bidding from 300 to 700. Who knows what the next bill will be in preparation for this next election? That is what the bidding war is all about—who can come up with the longest wall.

If we want to solve the problem of illegal immigration, we have to secure our border, strengthen enforcement of our immigration laws, and address the situation of approximately 12 million undocumented people in our country. That is a comprehensive approach.

I hope we will have a chance, though I am doubtful, to offer amendments to this bill. It would be good to return to some of the elements of the earlier bill which had widespread support. Sixty-four Senators voted for the bill, the McCain-Kennedy comprehensive immigration bill. I was one of them. We believe this was a good, bipartisan effort to deal with a very tough problem. We need that kind of comprehensive approach.

That bill included a provision which I will offer as an amendment to this bill, if given an opportunity. It is called the DREAM Act. This is a narrowly tailored, bipartisan measure I have introduced with Senators HAGEL and LUGAR, both Republican colleagues, who have joined me and many Democratic Senators in this bipartisan effort. This gives undocumented students the chance to become permanent residents if they came here as children, are long-term U.S. residents, have good moral character, no criminal record, will attend college or enlist in the military for at least 2 years.

Currently, our immigration laws prevent thousands of young people from pursuing their dreams and fully contributing to the Nation's future. They are honor roll students, star athletes, talented artists, valedictorians, aspiring teachers, doctors, scientists, and engineers. These young people have lived in this country for most of their lives. Their parents brought them here. It is the only home they know. They are assimilated and acculturated into American society. They are American in every sense of the word except for their technical legal status.

They have beaten the odds in their young lives. The high school dropout rate among undocumented immigrants is 50 percent, compared to 21 percent for legal immigrants and 11 percent for native-born Americans. So the odds are against these kids ever graduating from high school. These children we are talking about in this bill, the DREAM Act, have demonstrated the kind of determination and commitment that makes them successful students and points the way to the significant contributions they can make in their lives. These students are tomorrow's teachers, nurses, doctors, engineers, entrepreneurs. They have the opportunity to make America in the 21st century a success story if their talents can be part of that success.

The DREAM Act would help them. It is not an amnesty. It does not say automatically that they are going to be citizens. It is designed to assist only a select group of them, the very best of the best, young people who have done nothing wrong in their lives, good moral character, finished high school, who then enlist in our military for at least 2 years or pursue a college education. That gives them the chance to earn their way toward citizenship. This offers no incentive for undocumented immigrants to enter the country and requires the beneficiaries to have been in the country for at least 5 years when the bill is signed.

It would repeal a provision of Federal law that prevents individual States from granting instate tuition rates to these students. It would not create any new tuition breaks. It would not force

States to offer instate tuition to these students. It is a State decision. Each State decides. It would simply return to States the authority to make that decision.

It is not just the right thing to do, it is a good thing for America. It will allow a generation of immigrant students with great potential and ambition to contribute fully to America.

According to the Census Bureau, the average college graduate earns $1 million more in her or his lifetime than the average high school dropout. This translates into increased taxes and reduced social welfare and criminal justice costs.

There is another way our country would benefit from these thousands of highly qualified, well-educated young people who are eager to be part of America. They want to serve, many of them, in our military. At a time when our military is lowering its standards due to serious recruiting shortfalls, we should not underestimate the significance of these young people as a national security asset.

The Department of Defense has shown increased interest in this bill, understanding that there is a talent pool of these young people who are technically undocumented but want to live in the United States and serve our country. They need that talent. We need that talent as a nation.

On July 10, the Senate Committee on Armed Services held a hearing on the contributions of immigrants to the military. David Chu, the Under Secretary of Defense for Personnel and Readiness, said the following:

> There are an estimated 50,000 to 65,000 undocumented alien young adults who enter the United States at an early age and graduate from high school each year, many of whom are bright, energetic and potentially interested in military service. They include many who have participated in high school Junior ROTC programs. Under current law, these people are not eligible to enlist in the military. If their parents are undocumented or in immigration limbo, most of these young people have no mechanism to obtain legal residency even if they have lived most of their lives here. Yet many of these young people may wish to join the military, and have the attributes needed—education, aptitude, fitness and moral qualifications. In fact, many are High School Diploma Graduates, and may have fluent language skills—both in English and their native language . . . the DREAM Act would provide these young people the opportunity of serving the United States in uniform.

If we are talking about making America more secure safe, why would we turn our backs on the opportunity for these young people who came to America at an early age, who have beaten the odds by graduating from high school, who have good moral character and want to be part of our future, why would we turn down their opportunity to serve in our military?

The DREAM Act is supported by a broad coalition of the Senate, by religious leaders, advocates across the country, and educators across the political spectrum. Any real and comprehensive solution to the problem of illegal immigration must include the DREAM Act.

The last point I make is this: We are asked regularly here to expand something called an H–1B visa. An H–1B visa is a special visa given to foreigners to come to the United States to work because we understand that in many businesses and many places where people work—hospitals and schools and the like—there are specialties which we need more of.

I can recall Bill Gates coming to meet me in my office. Of course, his success at Microsoft is legendary. He talked about the need for computer engineers and how we had to import these engineers from foreign countries to meet the need in the United States. He challenged me. He said: If you will not allow me to bring the computer engineers in, I may have to move my production offshore, and I don't want to do that.

That is an interesting dilemma. Now put it in the context of this conversation. Why would we tell these young people, who have beaten the odds and shown such great potential, to leave America at this moment and then turn around in the next breath and say we are going to open the gates of America for other foreigners to come in and make our economy stronger? Why aren't we using these young people as a resource for our future? They have been here. They have lived here for a long period of time. They understand America. They are acculturated to America, and they want to make America better.

Instead of looking overseas at how we can lure more people in to strengthen our economy, we need only look right here at home. As Mr. Chu, from the Department of Defense, said there are 50,000 to 65,000 of these students each year. Why would we give up on them when they can be not only tomorrow's soldiers, marines, sailors, and airmen, but they can be tomorrow's doctors, scientists, and engineers?

If given the opportunity, and I certainly hope I will on this bill, I will offer the DREAM Act. I want my colleagues to join me on a bipartisan basis.

I walk around in the city of Chicago and other places in my State, and a number of young people who would be benefited by this bill come up to me. They tell me stories which are inspiring in one respect and heartbreaking in another—inspiring because some of them, with no help, no financial aid, have made it through college. One of them, a young man I continue to follow with great anticipation, is now working on a master's degree. He wants to go into medical research. He is good. He is a great scientist, a young scientist who wants to make this a better world. He is one of these undocumented kids, now a young man. Why would we give up on him?

These high school students who have worked so hard in neighborhoods and communities where it is very tough to succeed, they turn their backs on crime, drugs, and all the temptations out there and are graduating at the top of their class, they come to me and say: Senator, I want to be an American; I want to have a chance to make this a better country. This is my home. They ask me: When are you going to pass the DREAM Act? I come back here and think: What have I done lately to help these young people?

We can do something. It is not for me; it is not for the Senate; it is for this country. Let's take this great resource and let's use it for our benefit as a nation. We will be a stronger and better nation if we do.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The question is on agreeing to the motion to proceed to H.R. 6061.

The motion was agreed to.

The PRESIDING OFFICER. The Senate will now proceed to the consideration of H.R. 6061, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 6061) to establish operational control over the international land and maritime borders of the United States.

AMENDMENT NO. 5031

Mr. FRIST. Mr. President, I send an amendment to the bill to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Tennessee (Mr. FRIST) proposes an amendment numbered 5031.
>
> At the end of the bill, add the following:
>
> This Act shall become effective 2 days after the date of enactment.

Mr. FRIST. Mr. President, I now 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.

AMENDMENT NO. 5032 TO AMENDMENT NO. 5031

Mr. FRIST. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee (Mr. FRIST) proposes an amendment numbered 5032 to amendment No. 5031.

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

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

The amendment is as follows:

> On page 2, line 1 of the amendment,
> Strike ''2 days'' and insert '' 1 day''.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a

period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO JUDGE JAMES DEANDA

Mr. REID. Mr. President, last week, hundreds of family, friends, and admirers gathered in Houston, TX, to honor the life of a WWII veteran, legal giant, and true American hero, U.S. district judge James DeAnda. Judge DeAnda died last Thursday, September 7, 2006, at the age of 81. Throughout his life, he quietly went about his work of ensuring that Hispanic Americans were guaranteed the same protections and rights afforded them in our Constitution.

Today, we mourn his passing and pay tribute to his important contributions to this Nation. I am joined by Senator SALAZAR, who is familiar with the importance of Judge DeAnda's legacy. Senator SALAZAR, what do you believe are Judge DeAnda's most important legal victories?

Mr. SALAZAR. Thank you, Senator REID, for your recognition of Judge DeAnda. One of his most significant cases came in 1954, when he worked on and argued a little-known but enormously significant case before the U.S. Supreme Court. I should also mention that Judge DeAnda, together with a legal team of three other Mexican-American attorneys, were the first Mexican-American attorneys to argue before the highest Court in our land.

In Hernández v. Texas, Judge DeAnda believed that their client, Pete Hernandez, could not receive a fair and impartial trial unless members of other races served on the jury. Through careful research, Judge DeAnda showed that Hispanics in Jackson County, TX, were essentially barred from serving as jurors despite comprising a significant proportion of the population at the time. In fact, no Hispanic had served on any jury in Jackson County for a quarter century. The Supreme Court agreed and overturned the murder conviction. They unanimously ruled that Mexican Americans and all other racial groups in the United States had equal protection under the 14th amendment of the U.S. Constitution.

Despite this major legal victory, the Hernandez case was overshadowed by a companion case, Brown v. Board of Education, which was decided just a week later. But the results of this decision are evident in American courtrooms everywhere. Because of this decision alone, Judge DeAnda holds a special place in our country's history and our quest to become a more inclusive America.

Mr. REID. Yes, I agree with the Senator from Colorado. Judge DeAnda no doubt played a key role in our Nation's history. He was a key leader in the Latino civil rights movement who worked tirelessly to foster legal equality for Latinos and all Americans. Like many great Americans, Judge DeAnda rose from humble beginnings.

The son of Mexican immigrants, Judge DeAnda was born in Houston, TX. He interrupted his college education at Texas A&M University to join the Marines during World War II, serving in the Pacific and then later China. When he returned from the war, he completed his studies and then enrolled in the University of Texas Law School in 1950, where he was among the first Hispanics admitted.

Beyond the Hernandez case, Judge DeAnda took on countless other cases in his fight to end segregation of Hispanics in Texas. In 1968, he went before the Supreme Court in the case of Cisneros v. Corpus Christi ISD, a case that led to the desegregation and increased funding of schools in that city. It was also during that year that Judge DeAnda helped to establish one of the most respected national Hispanic organizations, the Mexican American Legal Defense and Educational Fund, MALDEF. Senator SALAZAR, would you say that the founding of MALDEF has empowered the Hispanic community in our country?

Mr. SALAZAR. As a Hispanic who grew up in the Southwest, I can say that the impact of MALDEF's establishment has been profound. As the Hispanic community's legal advocate, MALDEF has taken on cases throughout the country. In my own State, their work has helped improved access to equal education for Hispanics.

Judge DeAnda was also actively involved with Hispanic organizations like the League of United Latin American Citizens, LULAC, and the American G.I. Forum. By working with MALDEF, they ensured that Hispanic veterans, who gave the ultimate sacrifice on the battlefield, were not denied burial in our veterans cemeteries. Judge DeAnda's leadership was visionary and was recognized by President Jimmy Carter in 1979, who nominated him to serve as a Federal judge in the Southern District of Texas. At the time of his appointment, he was only the Nation's second Mexican-American Federal district judge.

Despite all of his contributions to the Latino community, Judge DeAnda never sought the limelight. He only strove to ensure equal rights for all in this country through his thorough representation and fair consideration of those who came before his court. I find his own words to be the most telling. He is said to have told a group of law school students once, ''You will find law to be a most satisfying career because of the service you can give your fellow man. I know of no other endeavor in which you can bring about healthy change and make a decent living. You can live well and do good.''

Judge DeAnda certainly did good and we are grateful to him for his service.

Mr. REID. We are truly indebted to Judge DeAnda. Indeed, it is only fitting that as our Nation begins a month-long celebration of Hispanic contributions to America during Hispanic Heritage Month, we take this time to acknowledge Judge DeAnda. We are deeply saddened by his passing but are also inspired by his example as we carry on the struggle to ensure equity for all Americans. His life-long dedication to the protection of Americans has made him an icon in the legal profession and a pioneer of the American civil rights movement.

Judge DeAnda will be missed by all, but certainly by his wife Joyce and their four children. They are in our thoughts and prayers.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On December 6, 2003, in Largo, FL, William McHenry was stabbed to death by Lucas McCauley. McCauley, a straight man, followed McHenry home from Club Z109, a bar that caters to gay and transgendered people. After arriving at his home, McHenry was attacked and stabbed by McCauley. According to police, the motivation for the attack was the victim's sexual orientation.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HATE CRIME

Ms. CANTWELL. Mr. President, the Jewish New Year is a time for celebration, prayer, and reflection. As friends and family commemorate the high holy days which begin tomorrow evening, Jewish communities across Washington State and around the world will come together, consider the past, and look to the year ahead.

Rosh Hashanah brings new beginnings and new energy; Yom Kippur calls for atonement and forgiveness. These ideals extend beyond religion or race—they build common ground and inspire shared sacrifice. All of this was threatened by an act of senseless violence and hate this summer in Seattle. We cannot give in to that hate.

During these days of repentance and renewal, I share a commitment to ending violence and to living with one another in peace both around the world and here in our own communities.

Yet we are still shocked and saddened by the pain and loss of July 28,

2006, when a gunman driven by hate, forced his way into the offices of the Jewish Federation of Greater Seattle. He killed one woman and wounded five others before surrendering to police.

Our community tries to recover, but we are stunned. The King County Prosecutor said: ''Make no mistake, this was a hate crime.''

I mourn the loss of Pamela Waechter, a beautiful woman and warm spirit who lost her own life while trying to improve the lives of others. All across Washington State we have been asking the same questions. How could such an event happen in our community? How could such violence be carried out in our city in the name of hate?

There is never any justification for a hate crime, anywhere. That this horrific crime took a life so suddenly and so uselessly is a tragedy for all of Seattle. We must recommit ourselves to the goal laid out by Rabbi Mirel. He said: ''Hatred will not be our legacy.''

We must do more, both as a national community and as individuals, to recognize the brutality of this crime and to respond to this terrible event. And we must do more to demonstrate that the only kind of intolerance Americans will abide is an intolerance for short-term answers and shortsighted conclusions.

Pamela Waechter, who was killed in July, set an example for us all through her involvement in the Seattle community. She moved to Seattle in 1979. After raising two children, Pamela became a student at the University of Washington and graduated with a degree in nutrition.

Pamela worked at Jewish Family Service and later at the Jewish Federation, where she did outreach and fundraising. She rose from secretary to two-term president at Temple B'nai Torah. Pamela stood out in her dedication, and brought the diverse people of this city together across boundaries of ethnicity or religion.

My thoughts and prayers go out to the victims and their families. We honor their spirit during these Days of Awe by celebrating their deeds, pursuing peace, and seeking renewal.

UNVEILING OF THE BOB DOLE LEADERSHIP PORTRAIT

Mr. ROBERTS. Mr. President, this summer the U.S. Capitol added a new portrait to its collection of Senate leaders. It is a face that is familiar to all of us since he once led this institution and spent 27 years here as a Senator. I refer to Bob Dole, former Senator from Kansas, chairman of the Finance Committee, majority leader, and Presidential candidate. His portrait was unveiled in the Old Senate Chamber on July 25 and now hangs in the Senate Chamber lobby, along with a painting of Senator George Mitchell, his Democratic counterpart. He looks very much at home there.

Bob Dole's story is familiar to almost everyone in this Nation: Born and raised in Russell, KS, he went off to serve in the U.S. Army during the Second World War. He was seriously injured in combat in Italy and underwent arduous physical rehabilitation for more than 3 years. He returned to Kansas, got his law degree, ran for the State legislature, and served as county attorney. He first ran for Congress in 1960 and served in the House of Representatives for 8 years. Then, like many of us, he migrated from the House to the Senate.

The Senate suited Bob Dole. He is a man who speaks his mind, candidly and forthrightly. Right away he impressed Senator Barry Goldwater, who hailed the new Senator from Kansas as ''the first fellow we've had around here in a long time who can grab 'em by the hair and haul 'em down the aisle.'' While that captures the combative side of the man, there was also Bob Dole the legislative tactician, a statesman who sought common ground among 100 Senators to craft legislation that would best serve the Nation. When President Ronald Reagan sought to shore up the finances of Social Security, it was Bob Dole, as chairman of the Senate Finance Committee, working with the ranking member of the minority, Daniel Patrick Moynihan, who forged the bill that stabilized the system for another generation.

As floor leader of his party, in both the majority and the minority, Bob Dole stood front and center in the Chamber, shrewd, vigilant, and masterful. But you could also find him off the floor, sitting in the cloakroom, a legal pad on his lap, surrounded by a knot of Senators, drafting the language of an amendment to break a legislative impasse and get the Senate's business back on track.

He did this all with a ready quip and a limitless sense of humor that got him and the Senate through many difficult moments. Bob Dole possesses a sure sense of the ironies of government and the foibles of politicians. He has used this to great advantage in winning over his audiences, whether in small groups or vast arenas. He is smiling in his portrait, as if he had just delivered one of those lines that made his listeners laugh.

It is a handsome portrait of a man who well deserves the honor of being included among the artwork of the U.S. Capitol. Future Senators can gaze on it for inspiration, and it will remind visitors of his many contributions to our Nation's history. Bob Dole will most likely glance at it himself when he visits the Capitol and probably make a few wry remarks when he does. Today he is proudly a Senate spouse, married to the senior Senator from North Carolina, ELIZABETH HANFORD DOLE, who carries on his legislative tradition.

Mr. President, I ask unanimous consent to have printed in the RECORD the proceedings of the ceremony for unveiling the Bob Dole leadership portrait.

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

REMARKS TRANSCRIBED FROM THE BOB DOLE LEADERSHIP PORTRAIT UNVEILING—JULY 25, 2006 IN THE OLD SENATE CHAMBER

Mr. FRIST: Good afternoon. It's an honor to be here today, and it's a special honor for me to welcome back a leader whose title I share but whose service will never be rivaled.

Ten years ago, Bob Dole stepped down from the office I now hold, and he left invaluable words to all who would follow. He said, ''You do not lay claim to the office you hold. It lays claim to you. Your obligation is to bring to it the gifts you can of labor and honesty and then depart with grace.''

To congress and to the office of Majority Leader, Bob Dole brought the gifts of labor and honesty. But what he also brought was an invaluable perspective. It was a perspective of a fighter. It was the mind-set of the greatest generation—the generation who fought on the battlefield, on farm field, in factory—so America might rise.

From the humble plains of Kansas, Bob Dole learned the value of fighting one's way up in the world through hard and honest work. And from the battlefields of war, he learned that the freedoms we enjoy—the very freedoms that enable a boy from Kansas to dream big and succeed—were to be fought for at any price.

To this day, Bob Dole has never stopped fighting for the America he believed in. Ardently, he fought for a better life for all Americans—for the disadvantaged, for Americans with disabilities, for the hard-working farmer trying to raise a family. And always he has stood tall for America's veterans. For those who made the ultimate sacrifice, Bob Dole fought to ensure their sacrifice was never forgotten.

And it was that passion that paved the way to the construction of the World War II Memorial on the Mall. At the dedication to that memorial in 2004, Bob Dole said to the audience: ''what we learned in foreign fields of battle, we applied in post-war America. As a result of our democracy, though imperfect, is more nearly perfect than in the days of Washington, Lincoln, Roosevelt.''

Bob, today I say to you, our democracy is more nearly perfect because of you. America is a better place because you've been here fighting on our side. From the battlefield to the Senate floor, thank you for fighting for America.

[applause]

Mr. MITCHELL: Senator Frist, Senator Reid, Senator Dole the first, Senator DOLE the current, friends and family of both Senators DOLE and colleagues, for six years I was privileged to serve as Senate Majority Leader. Shortly after I was elected to that position, I went to see Bob Dole. He was then the Minority Leader, a position he continued to hold during my tenure as Majority Leader.

Bob had been in the Senate much longer than I had, knew a lot more, and so I understood that I could learn a lot from him, as I'd learned from my immediate predecessor, Senator ROBERT BYRD. I told Bob that I looked forward to working with him, and we quickly agreed on a simple set of rules that would guide our relationship. We would not surprise or embarrass each other. We would try to work together in good faith whenever possible. But when we couldn't, we would say so candidly. And always we'd let the Senate decide.

For six years, we lived by those rules. There were many difficult issues, some tense times, we disagreed often on substance and on process, but we never let a harsh word pass between us, in public or in private. And that is true to this day. Never in our lifetimes has a harsh word passed betweert us. We believed in and we trusted each other. All

of this was possible because of Bob Dole's essential integrity and his love for the Senate.

Bob's word was his bond. Never, ever did he tell me anything that was untrue. Never did he go back on his word. He was more experienced, more knowledgeable, more savvy than I was, so it would not have been unreasonable for him to spurn my offer of cooperation. But he didn't. Not because of me but because of who he was and is.

Born and raised in Russell, Kansas, he acquired early in life the tone and the values of the American Midwest. So he's always had intense loyalty to his faith, to his family, to his country. His patriotism was tested and found not wanting in the fire of the second World War. In the most direct and unforgettable way, he learned firsthand the horror of war. But he also learned why some Wars must be fought in the defense of freedom.

A long and painful rehabilitation gave him time to try to understand why he would forever bear the scars of war. I But it also gave him time to think of how he could best serve the country he was so proud to defend. The result was a distinguished political career which is so well-known to everyone here that I won't try to recite it except to say that Bob Dole brought honor and integrity to every office he ever held.

One of Bob's many strengths is his sense of humor, his ability to defuse tension with a light comment, to find a laugh in even the most dark and difficult times. I've been the butt of many of his jokes.

[laughter]

And I can testify that he does it in such a nice way that makes even the butt laugh.

[laughter]

Our relationship was forged in many long days and nights in the Senate negotiating over the substance and the process of legislation. We usually met in my office or his. As many visitors to our offices noted at the time, his office was a bit bigger than mine. So I often was asked: how come the Minority Leader has a bigger office than the Majority Leader? I always replied that he was entitled to it because he was a leader before I was.

After I left the Senate, I joined a law firm. Two years later, we were reunited when Bob joined the same firm. This is our—today is our second reuniting in recent years. And when I got there, I couldn't help notice that while I was tucked away in a tiny office near the attic—[laughter]—he had literally a whole floor for himself and his huge entourage. And I was really bothered when I learned that he had brought along to the law firm his little dog, Leader, and the dog had a bigger office than I had.

[laughter]

So I asked him about it. And he laughed and he said, ''He's entitled to it because he was leader before you were.''

[laughter]

Well, it's a real honor for me to be here today to join Bob's wife and family and friends in paying tribute to a great and a remarkable American. Bob Dole is to me a colleague, a mentor, and most importantly a friend. Congratulations, Bob. It's a pleasure to be reunited with you again, as we both hang on the wall of this great institution—hidden away in the lobby, where no one will be able to see us—an institution which means so much to both of us and to which you devoted so much of your life.

And speaking of colleagues and friends, it's now my pleasure to introduce Senator Warren Rudman of New Hampshire. Warren, Bob and I served together in the Senate and Warren and I have worked together in several capacities since then. We served on a committee, and after exposure to Senator Rudman for a couple of months, one member of the committee said that Senator Rudman pears to have reached the age at which he's willing to say anything, regardless of the consequences.

[laughter]

I replied that actually Senator Rudman reached that point at the age of nine and the rest of us had been dealing with the consequences ever since.

[laughter]

Senator Rudman?

[applause]

Mr. RUDMAN: Thank You, George. Bob, Elizabeth, and Robin, colleagues, friends and family of Bob Dole, when I was preparing for today, I thought about Bob Dole's extraordinary record in the Senate and thought of speaking about his many accomplishments. But they are a matter of record with which all of you are very familiar.

For me, when I think of my years of friendship with Bob, there are two endearing qualities that are always uppermost in my mind. First, I will forever marvel at the self-deprecating wit of this great American from the heartland. Second, I have deeply admired his dedication to the principles and values of this great country. What better way to share with you my thoughts than to do so in Bob Dole's own words?

Thus, let me read to you two excerpts from his wonderful memoir, ''One Soldier's Story.'' First, his wonderful wit, in this case, given at a most solemn occasion at one of our country's most important places.

Here are Bob's words. ''Maintaining a healthy sense of humor is a key to overcoming any setback in life, even when your setbacks are extremely public. In my speech at the White House after accepting the Presidential Medal of Freedom from President Clinton just a few months after I lost the election to him, I began as though taking the oath of office. 'I, Robert J. Dole . . .' I paused as the august crowd of political leaders and members of the press immediately caught on and roared in laughter. '. . . do solemnly swear. . .' I continued, without breaking a smile to gales of laughter. I looked up as though surprised. 'Sorry, wrong speech.' The crowd roared again. 'But I had a dream. . .' The audience chuckled at my allusion to Martin Luther King Jr. '. . .that I would be here this historic week receiving something from the President. But I thought it would be the front door key to the White House.' I looked over and the President himself was doubled over with laughter.'' And for those of you that missed that occasion, it truly was a remarkable display of Bob Dole's humor.

Secondly, his devotion to the principles and values that George Mitchell referred to that Bob Dole holds so dear. Again, in Bob's own words. ''Nearly 60 years ago, after I headed up Hill 913, I concluded my speech at the dedication ceremony of the National World War II Memorial by saying: 'It is only fitting that when this memorial was opened to the public, the very first visitors were schoolchildren. For them, our war is ancient history and those who fought it are slightly ancient themselves. Yet in the end, they are the ones for whom we built this shrine and to whom we now hand the baton in the unending relay of human possibility. Certainly the heroes represented by the 4,000 gold stars of the Freedom Wall need no monument to commemorate their sacrifice. They are known to God and to their fellow soldiers, who will mourn their passing until the day of our own. In their name, we dedicate this place of meditation, and it is in their memory that I ask you to stand, if possible, and join me in a moment of silent tribute to remind us all that sometime in our life we have or may be called upon to make a sacrifice for our country to preserve liberty and freedom.' ''

Bob, it was an extraordinary privilege to work with you in the Senate and I'm deeply honored to have had this opportunity to be with you and to speak in your behalf today.

[applause]

Now I'm pleased to introduce a longtime friend and senior staff member of Bob Dole's, Rod DeArment.

[applause]

Mr. DeARMENT: Good afternoon. Shortly after I joined the Senate Finance Committee staff, where I started working for Senator Dole, he asked me to travel with him on a series of speeches on the subject of the crude oil windfall profit tax. My job was to explain the mechanics of the—of the tax. And at the first event, as Senator Dole gave introductory remarks and I launched into a review of the structure of the tax, complete with charts and a pointer. Midway through my presentation, Senator Dole slipped a note on to the podium, and I glanced down as I was speaking and—and thought it said, ''more detail.'' So I dug in and I gave a more thorough explanation of the base prices, tertiary wells, stripper well, et cetera. When I sat down and I looked more closely at the note, I realized it said, ''move faster.''

[laughter]

Well, in time, I learned brevity and to read Senator Dole's handwriting better.

As I contemplated this unveiling today, I thought about all the qualities Senator Dole has that are nearly impossible for an artist to fully capture, no matter how skillful the artist is. For example, how can an artist truly reflect Senator Dole's warm friendliness that was evident to all the staff around this Capitol, from the guards at the door he greeted each morning, to the cloakroom team, to the restaurant workers, to the staffers—some of whom are here—that sat on the back of the couches and were amused by Senator Dole's comments as he passed by?

It's hard to capture his quick wit and his spontaneous humor. Much of his humor was self-deprecating, as Senator Rudman indicated. Hundreds of times he told the story of his life about how he planned to study medicine. He went away to the war, suffered a head injury and went into politics.

[laughter]

His humor was never mean, and I can tell you, his quick wit rescued me more than once from fierce cross-examination trying to defend things at the chair at the Senate Finance Committee. It's also hard to capture his boundless energy. He seemed to revel in early morning breakfasts and late-night sessions. As we approach this August recess, I recall how many august recesses Senator Dole threatened to cancel if we didn't finish a particular bill. Nearly every august recess there was that threat.

Finally, how can an artist capture Senator Dole's perseverance, tenacity and spirit? He never seemed to give up on bills he thought worthwhile. He just kept working. When a bill got hung up, his instruction always was, ''work it out.''

[laughter]

TEFRA in 1982 was a tribute to both Senator Dole's legislative skill and his never-say-die tenacity. Now, before I get another note from the Senator about moving faster, I would like to introduce the subject today of this grand portrait, Senator Dole.

[applause]

Mr. DOLE: Thank You.

[applause]

Mr. DOLE: Thank You.

[applause]

Mr. DOLE: Thank You. Well, first I want to thank everybody for being here and particularly Senator Frist and Senator Reid, Senator Rudman, Senator Mitchell, my good friend Rod. And it's—you know, as Barbara Mikulski said as she walked by, ''I wouldn't miss this hanging for the world.''

[laughter]

And some of my colleagues have been waiting for years to nail me to the wall. So . . .

[laughter]

And I remind you of an old axiom: ''beware of what you wish for.'' In fact, I understand, as Senator Mitchell has indicated, that I'm to be hung in the Senate lobby—out of sight from the public but not far from where distinguished Members have been known to lie down and take a nap.

[laughter]

So if nothing else, I'll be there to disturb your sleep.

[laughter]

I also want to thank the artist for doing something that eluded a host of high-priced campaign consultants and spin doctors: making me look presidential.

[laughter]

Mr. Kinstler certainly made the most of what he had to work with. It calls to mind the story of Abraham Lincoln, who was running for the Senate from Illinois against Stephen A. Douglas. At one point in the campaign, Douglas called his opponent two-faced. ''I leave it to you,'' Lincoln told the audience. ''If I had two faces, do you really think I would use this one?''

[laughter]

I know that actually happened because I was in the audience. So . . .

[laughter]

Coming back to this place is more than an exercise in nostalgia. If it feels like a homecoming—and it does—it is because of two families to whom I owe so much. Elizabeth, Robin, Gloria, my sister Norma Jean, and Gladys, my sister Gloria, of all the blessings bestowed on me, none can match your love and support. I want to thank you for being here today and for being there whenever in the past.

And then there is the Senate family. And like most families, it sometimes appears dysfunctional to those outside its ranks. So doubt could be a little—no doubt it could be a little more efficient, maybe a little less verbose. But we should never forget that all the talk and all those rules are put in place to safeguard our liberties. How much better are the raised voices of debate than the dull unanimity of the cell or the grim silence of the Gulag?

Standing in this room where so much history has been made, I can't help but reflect on lawmakers who not only made me a better Senator but a better person. And some are here today. Many are here today. In both parties. Others—too many others—are present in memory only. I think of Everett Dirksen and Hubert Humphrey and Barry Goldwater and Pat Moynihan, for starters. Each of them a patriot before he was a partisan.

But the Senate family is hardly limited to Senators. Rod, who just spoke, and Sheila Burke and Bob Lighthizer and Joyce McCluney, thank you for uncovering me today and for covering for me over the years.

[laughter]

You serve as stand-ins for hundreds of other dedicated staff members—many of whom are with us today—who made me look better than any artist could. Some of you greeted constituents or wrote press releases. Others crafted legislation or chased down missing Social Security checks or made certain that the voice of ordinary Kansans was heard in this capital city. Whatever you did, each of you has a place in the Senate's history and always a place in my heart.

When I left this building ten years ago, I said it was up to the electorate to decide my future address. And in their wisdom, they decided they'd rather see me in commercials than in the Oval Office.

[laughter]

And I have discovered that there is, indeed, life after the Senate.

If not like that other Senator.

So my final acknowledgment is to those to whom I owe my greatest debt: to the people of Kansas who came to my aid many, many times when I needed it and did it for many—more than 35 years. You honored me with your confidence and you entrusted me with your interests and ideals. And after today, thanks to the kindness of my colleagues, part of me will forever be joined in this—to this institution. But the greater part will be at home on the Kansas prairie, from which I draw whatever strengt of character I brought to these halls.

So again, I thank you very much for being here. And may God Bless the United States Senate, and God Bless America. Thank you.

[applause]

Mr. REID: We've all heard people, including Senator Dole, say funny things about him. But everyone in this room should understand and acknowledge that we have a rare opportunity today to stand in the presence of a great man, a man who has changed the history of this country. Think about him.

He came from Kansas, went to fight in the war, was grievously wounded in that war. Spent not days, not weeks, not months, but years in a hospital with Senator Inouye—the same hospital—trying to make a new life out of a life that had been changed dramatically as a result of the physical damage to their bodies as a result of that war. Fought back. Decided he'd enter government and has done that to the betterment of us all.

Bob Dole, candidate for President. Bob Dole, Member of the United States Senate. Bob Dole, Majority Leader of the United States Senate. And he's done it with such grace and humor.

I've learned a number of things from Senator Dole. I've learned that you should try to be funny. But no one can be humorous like Senator Dole. I asked my staff, I said, ''find some things that he said were funny.'' And there were volumes of stuff. But none of them seemed very funny reading them because it's his delivery. It's his delivery.

He said, ''as long as there's only three or four senators on the floor, the country's in good shape. It's only when you have 50 or 60 of them on the floor you have to be concerned.''

[laughter]

On seniority—he invented this. It's been used by many. ''I used to think that seniority was a terrible thing when I didn't have any.''

[laughter]

After his 1996 campaign: ''Elizabeth's back at the Red Cross and I'm walking the dog.''

[laughter]

And again after that same campaign, he said, ''at least Elizabeth is the president of something.''

[laughter]

Senator Dole has worked with Senator Byrd, Senator Mitchell, Senator Daschle. And as Senator Mitchell said, Senator Dole was a great advocate. I was there to witness his advocacy. But the thing about Senator Dole working with these three Senators that I've mentioned was that they all said things in a civil fashion to each other. And I—if I had to say in a sentence what Senator Dole has meant to me, it's this. And this is a quote. ''Your political opponent does not have to be your enemy.'' We should all remember that, those of us who serve in public office. Just because you have someone that you're opposed to, a particular piece of legislation, that person's not an enemy.

So, Senator Dole, on behalf of the Reid Family, the Senate Family and our country, thank you very much for your service.

[laughter]

I would ask that Senator Dole, Elizabeth Dole come forward; Robin Dole, his daughter; Sheila Burke, who we all know; Robert Lighthizer, former staff; Joyce McCluney, former staff, please come forward.

[applause]

[inaudible conversation]

Mr. REID: There will be a reception in S–207. Everyone's invited.

A FEW BAD APPLES

Mr. LEVIN. Mr. President, analyses of gun trace data has consistently found that a tiny percentage of our Nation's licensed gun dealers contribute to the vast majority of our Nation's crime guns.

This finding was first revealed in a 1995 report produced for the Bureau of Alcohol, Tobacco, Firearms and Explosives—ATF—by a team of researchers at Northeastern University. The report used trace data to identify patterns of firearm trafficking. It found that less than one percent of licensed gun dealers account for almost half of the traced crime guns.

Later analyses confirmed these findings. A report published by Senator SCHUMER used 1998 trace data to identify 137 dealers nationwide that sold more than 50 guns traced to crime. The 13 worst dealers were the source of 13,000 guns used in crimes that year.

In the ''Commerce in Firearms'' report released in February 2000, the ATF reported that only 1.2 percent of dealers, or about a thousand dealers, accounted for 57 percent of the crime guns that year. A smaller subset of only 330 dealers accounted for approximately 40 percent of the crime guns. Again, the trace data showed that a relatively small number of gun dealers were responsible for the diversion of a tremendous number of guns into the illegal market. The report also recognized that trace data should be used by manufacturers of firearms to ensure retail sellers act responsibly to prevent the diversion of guns into the illegal market.

In 2004, the Americans for Gun Safety Foundation released a report based on trace data introduced into evidence in a lawsuit brought against the gun industry by the NAACP that named the gun dealers who sold the most guns traced to crime. Dealers that sold 200 or more crime guns from 1996 to 2000 were listed by name and location. The publication of the report not only allowed local communities to know where high trace gun dealers were operating, but also handed the gun industry a specific list of dealers who were contributing the most guns to the illegal market.

In 2005 the ATF released a study that found that 97 rogue gun dealers had 11,840 guns ''disappear'' from their shops. These dealers accounted for 96 percent of the guns identified as missing from 3,083 Federal firearm licensees that the ATF inspected.

Over the last few years, crime gun tracing has produced a great deal of valuable information on how the illegal gun market is supplied. A small number of rogue gun dealers are playing a tremendous role in aiding gun

crimes by supplying thousands of guns to the criminal market. We must use this type of information to help point the way to policies that keep guns out of the hands of criminals.

COST ESTIMATES

Mr. LUGAR. Mr. President, I ask unanimous consent for three cost estimates from the Congressional Budget Office to be printed in the RECORD.

These estimates are for three important bills which the Committee on Foreign Relations has already reported to the Senate. They are S. 2489, S. 3709, and S. 3722.

The Standing Rules of the Senate require that committee reports on bills or joint resolutions contain cost estimates for such legislation.

When the Committee on Foreign Relations reported these bills earlier this year, the committee had not received the Congressional Budget Office's cost estimates.

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

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 2489—U.S. Additional Protocol Implementation Act

Summary: S. 2489 would implement the obligations of the United States under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States of America (hereafter called the Additional Protocol). The Additional Protocol was signed by the United States in 1998 and ratified by the Senate in 2004 (Treaty Document 107–7). The bill would authorize government agencies to conduct vulnerability assessments at government and commercial facilities to protect national security interests. The bill also would authorize the U.S. government to seek search warrants when owners of commercial facilities bar the government from entering the location in support of the IAEA inspections and would establish guidelines for conducting environmental sampling at both government and commercial locations.

CBO estimates that implementing S. 2489 would cost $17 million in 2007 and $72 million over the 2007–2011 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or receipts.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that because this bill would implement the Additional Protocol, it falls within that exclusion. CBO has thus not reviewed the bill for intergovernmental or private-sector mandates.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 2489 is shown in the following table. The costs would fall within budget functions 050 (national defense), 270 (energy), and 370 (commerce and housing credit). CBO assumes that the bill will be enacted near the start of fiscal year 2007 and that the estimated amounts will be appropriated each year.

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level ..	23	13	13	13	13
Estimated Outlays	17	15	14	13	13

Basis of estimate: Enacting S. 2489 would enable government agencies to implement the Additional Protocol. Specifically, the bill would:

Authorize government agencies to conduct vulnerability assessments at government and commercial facilities,

Designate government agencies to provide outreach programs to the commercial facilities and to issue regulations in order to implement the provisions of the Additional Protocol,

Authorize the federal government to seek search warrants when the owner of a commercial facility refuses to give consent for inspection by the IAEA, and

Set guidelines for the IAEA to conduct environmental sampling at government and commercial facilities.

CBO expects that most of the assessments would be performed by the Department of Defense (DoD) and the Department of Energy (DOE) at universities, fuel-fabrication plants, and commercial manufacturing sites currently working on DoD projects, as well as DOE labs. Although DoD and DOE already have the authority to perform such assessments, CBO believes that those agencies will not perform these assessments unless S. 2489 is enacted. Based on information from those two departments, CBO estimates that the Department of Defense would conduct about 50 assessments a year, while the Department of Energy would conduct about 50 assessments in 2007 and about 10 assessments each year thereafter, at an average cost of about $200,000 per assessment. Accordingly, CBO estimates that conducting vulnerability assessments would cost $15 million in 2007 and $65 million over the 2007–2011 period, assuming appropriation of the estimated amounts.

CBO expects that most of the outreach efforts would be performed by the Department of Commerce (DOC). DOC is developing a new database to support the reporting requirements of the Additional Protocol. The department also would conduct outreach, training, and inspection support programs at commercial facilities. CBO anticipates that the Nuclear Regulatory Commission's (NRC's) staff would revise regulations to include the new requirements for implementing the Additional Protocol and would prepare guidance documents for its commercial licensees to prepare for the IAEA inspections. Under current law, 90 percent of the additional costs for the NRC would be covered by fees paid by operators of nuclear power plants. Based on information provided by DOC and NRC, CBO estimates that the net cost of these efforts would be $2 million in 2007 and $7 million over the 2007–2011 period.

CBO expects that most facilities would cooperate with the inspections and that the costs to seek and execute warrants required under the bill would be insignificant. Also, based on information from the State Department, CBO believes that the IAEA would not be able to conduct environmental sampling at government or commercial facilities because the United States, as a lawful nuclear weapons state, would forbid such sampling under existing treaty rights. Thus, CBO estimates that the U.S. government would incur no costs related to such sampling.

Intergovernmental and Private-Sector Impact: Section 4 of the UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that because this bill would implement the Additional Protocol, it falls within that exclusion. CBO has thus not reviewed the bill for intergovernmental or private sector mandates.

Previous CBO Estimate: On August 10, 2006, CBO transmitted an estimate for S. 3709, a bill to exempt from certain requirements of the Atomic Energy Act of 1954 United States exports of nuclear materials, equipment, and technology to India, and to implement the United States Additional Protocol, as ordered reported on July 20, 2006. Title II of that bill is identical to S. 2489, and the estimated costs are the same in both estimates.

At the request of the Senate Committee on Foreign Relations, CBO prepared an analysis of the costs associated with ratifying the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency Regarding Safeguards in the United States (Treaty Document 107–7). In that analysis, dated March 5, 2004, CBO estimated that one-time costs to the U.S. government for implementing the Additional Protocol would total between $20 million and $30 million, and recurring costs would total between $10 million and $15 million a year, assuming appropriation of the estimated amounts. Those estimated costs are similar to the costs described in this estimate.

Estimate Prepared by: Federal Costs: Raymond J. Hall; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Tyler Kruzich.

Estimate Approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 3709—A bill to exempt from certain requirements of the Atomic Energy Act of 1954 United States Exports of nuclear materials, equipment, and technology to India, and to implement the United States Additional Protocol

Summary: S. 3709 would exempt India from the current-law prohibition on the transfer of nuclear materials and technology to countries that are not signatories to the Treaty on the Non-Proliferation of Nuclear Weapons. In addition, S. 3709 would implement the obligations of the United States under the Protocol Additional to the Agreement between the United States of America and the International Atomic Energy Agency (IAEA) for the Application of Safeguards in the United States of America (hereafter called the Additional Protocol).

CBO estimates that implementing S. 3709 would cost $17 million in 2007 and $72 million over the 2007–2011 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or receipts.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that because title II of this bill would implement the Additional Protocol, it falls within that exclusion. Other provisions of the bill contain no intergovernmental or private-sector mandates and would not affect the budgets of state, local, or tribal governments.

Estimated Cost to the Federal Government: The estimated budgetary impact of S. 3709 is shown in the following table. The costs would fall within budget functions 050 (national defense), 270 (energy), and 370 (commerce and housing credit).

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	23	13	13	13	13
Estimated Outlays	17	15	14	13	13

Basis of Estimate: CBO assumes that the bill will be enacted near the start of fiscal year 2007 and that the estimated amounts will be appropriated each year.

U.S. Additional Protocol Implementation (title II)

Enacting title II of S. 3709 would enable government agencies to implement the Additional Protocol. Specifically, the bill would: Authorize government agencies to conduct vulnerability assessments at government and commercial facilities, Designate government agencies to provide outreach programs to the commercial facilities and to issue regulations in order to implement the provisions of the Additional Protocol, Authorize the federal government to seek search warrants when the owner of a commercial facility refuses to give consent for inspection by the IAEA, and Set guidelines for the IAEA to conduct environmental sampling at government and commercial facilities.

CBO expects that most of the assessments would be performed by the Department of Defense (DoD) and the Department of Energy (DOE) at universities, fuel-fabrication plants, and commercial manufacturing sites currently working on DoD projects, as well as DOE labs. Although DoD and DOE already have the authority to perform such assessments, CBO believes that those agencies will not perform these assessments unless S. 2489 is enacted. Based on information from those two departments, CBO estimates that the Department of Defense would conduct about 50 assessments a year, while the Department of Energy would conduct about 50 assessments in 2007 and about 10 assessments each year thereafter, at an average cost of about $200,000 per assessment. Accordingly, CBO estimates that conducting vulnerability assessments would cost $15 million in 2007 and $65 million over the 2007–2011 period, assuming appropriation of the estimated amounts.

CBO expects that most of the outreach efforts would be performed by the Department of Commerce (DOC). DOC is developing a new database to support the reporting requirements of the Additional Protocol. The department also would conduct outreach, training, and inspection support programs at commercial facilities. CBO anticipates that the Nuclear Regulatory Commission's (NRC's) staff would revise regulations to include the new requirements for implementing the Additional Protocol and would prepare guidance documents for its commercial licensees to prepare for the IAEA inspections. Under current law, 90 percent of the additional costs for the NRC would be covered by fees paid by operators of nuclear power plants. Based on information provided by DOC and NRC, CBO estimates that the net cost of these efforts would be $2 million in 2007 and $7 million over the 2007–2011 period.

CBO expects that most facilities would cooperate with the inspections and that the costs to seek and execute warrants required under the bill would be insignificant. Also, based on information from the State Department, CBO believes that the IAEA would not be able to conduct environmental sampling at government or commercial facilities because the United States, as a lawful nuclear weapons state, would forbid such sampling under existing treaty rights. Thus, CBO estimates that the U.S. government would incur no costs related to such sampling.

United States-India Peaceful Atomic Energy Cooperation (title I)

Under title I of this bill, the United States could transfer nuclear material and technology to India, subject to an agreement between the two countries, if the President certifies that India meets certain conditions. Those conditions would require India to: Provide a credible plan to separate civilian and military nuclear facilities, Conclude an agreement with the International Atomic Energy Agency, Work actively with the United States to conclude a multilateral treaty to stop the production of fissile materials for use in nuclear weapons or other nuclear explosive devices, Support efforts of the international community to prevent proliferation of nuclear enrichment and reprocessing technology, and Gain the consensus support of the Nuclear Suppliers Group, an organization of countries with nuclear capabilities, for trade in items covered by its guidelines.

Additionally, in the event an agreement is reached for nuclear cooperation between India and the United States, the bill would require the President to submit a report detailing the basis for determining that India meets all the necessary requirements and to inform the appropriate committees of any significant nuclear activities of India. The bill also would require that the agreement be approved by a joint resolution of the two Houses of Congress that has been enacted into law. And finally, the bill would require that the exemption from current-law prohibition would cease to be effective if India detonates a nuclear explosive device after the date of the enactment of this bill.

CBO estimates that implementing title I of this bill would have no significant impact on the federal budget.

Intergovernmental and Private-Sector Impact: Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations. CBO has determined that because title II of this bill would implement the Additional Protocol, it falls within that exclusion. Other provisions of the bill contain no intergovernmental or private-sector mandates and would not affect the budgets of state, local, or tribal governments.

Previous CBO estimate: On August 10, 2006, CBO transmitted a cost estimate for S. 2489, the U.S. Additional Protocol Implementation Act. That bill contains provisions that are identical to those in title II of S. 3709, and the estimated costs are the same in both estimates.

On July 13, 2006, CBO transmitted a cost estimate for H.R. 5682, the United States and India Nuclear Cooperation Promotion Act of 2006, as ordered reported by the House Committee on International Relations on June 27, 2006. That bill contains provisions that are very similar to those in title I of S. 3709, and the estimated costs are the same in both estimates.

At the request of the Senate Committee on Foreign Relations, CBO prepared an analysis of the costs associated with ratifying the Protocol Additional to the Agreement Between the United States of America and the International Atomic Energy Agency Regarding Safeguards in the United States (Treaty Document 107–7). In that analysis, dated March 5, 2004, CBO estimated that one-time costs to the U.S. government for implementing the Additional Protocol would total between $20 million and $30 million, and recurring costs would total between $10 million and $15 million a year, assuming appropriation of the estimated amounts. Those estimated costs are similar to the costs described in this estimate.

Estimate prepared by: Federal Costs: Raymond J. Hall and Sam Papenfuss, Impact on State, Local, and Tribal Governments: Melissa Merrell, Impact on the Private Sector: Tyler Kruzich.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

S. 3722—Naval Vessels Transfer Act of 2006

Summary: S. 3722 would authorize the transfer of 10 naval vessels to foreign countries: five by grant and five by sale. In each case, the bill identifies the vessel, the type of transfer, and the recipient country. The authority to transfer those vessels would expire two years after enactment.

CBO estimates the specified sales would increase offsetting receipts by $60 million over the 2007–2008 period. (Asset sale receipts are a credit against direct spending.)

S. 3722 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated Cost to the Federal Government: CBO's estimate of the budgetary effects of S. 3722 are shown in the following table. The costs of this legislation fall within budget function 150 (international affairs). For this estimate, CBO assumes that S. 3722 would be enacted near the beginning of fiscal year 2007.

	By fiscal year, in millions of dollars—										
	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
CHANGES IN DIRECT SPENDING											
Estimated Budget Authority	0	−10	−50	0	0	0	0	0	0	0	0
Estimated Outlays	0	−10	−50	0	0	0	0	0	0	0	0

Basis of estimate: S. 3722 would authorize the transfer of 10 naval vessels to foreign countries. Under the act, five specific vessels could be transferred to designated countries by grant and the other five vessels could be sold to specified countries. Based on information from the Navy regarding the value of these ships and recent experience with actual sales and grants, CBO estimates that

the sales would increase offsetting receipts by $10 million in 2007 and $60 million over the 2007–2008 period.

Intergovernmental and private-sector impact: S. 3722 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Sam Papenfuss.

Impact on State, Local, and Tribal Governments: Melissa Merrell.

Impact on Private Sector: Victoria Liu.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

SPACE SHUTTLE ''ATLANTIS'' STS–115 MISSION

Mr. NELSON of Florida. Mr. President, today, September 21, 2006, marked the successful conclusion of the STS–115 Space Shuttle *Atlantis* mission with its safe landing at the Kennedy Space Center in Florida. This 12-day mission was the 116th shuttle mission and the 19th to visit the International Space Station. STS–115 marked the resumption of International Space Station construction for the first time since 2002. The Atlantis crew delivered and installed a large space station truss segment, two solar arrays and associated equipment, significantly increasing the electrical power generation capability on the space station. STS–115 included three critical spacewalks to install the truss and solar panels, laying the groundwork for the future doubling in size of the space station.

I applaud the skill, bravery, and accomplishments of the STS–115 crew—Commander Brent Jett, pilot Christopher Ferguson, and space walking mission specialists Daniel Burbank, Steven MacLean, Heidemarie Stefanyshyn-Piper, and Joseph Tanner. This successfu mission is a testament to the thousands of people who work on the Space Shuttle and Space Station Programs.

We must continue to fly space shuttle in order to complete the construction of the International Space Station, honor commitments to our international partners, and utilize this laboratory for its intended purpose—extending our presence in space and increasing our understanding of the space environment for future explorers. Equally important, we must work together to preserve the workforce that will soon become the backbone of the new Orion crew exploration vehicle and the next human space project.

CODE TALKERS RECOGNITION ACT

Mr. HARKIN. Mr. President, this is a historic day. Last night we passed S. 1035, the Code Talkers Recognition Act.

As my fellow Senate colleagues may know, code talkers played a unique role in our battlefield successes by transmitting commands and messages in their native language, which, of course, completely baffled the enemy. I was fortunate to meet one of these heroes during a visit to the Meskwaki settlement a couple years ago. Frank Sanache was modest and soft spoken about his heroism. But history has recorded his deeds in battle. And his passing was a loss to all of us who knew and respected him.

In January of 1941, Frank and seven other Meskwaki tribal members—Edward Benson, Dewey Roberts, Dewey Youngbear, Mike Twin, Jude Wayne Wabaunasee, Mike Wayne Wabaunasee, and Willard Sanache—enlisted in the Iowa National Guard. They were recruited for code talker training, and served in the 168th Infantry, 34th Division.

In the Second World War, communication in Native American languages proved to be the perfect tool for frustrating enemy eavesdropping. Indian languages were used to develop military codes that were difficult to intercept and impossible to break. This is ironic, because in the years prior to the war, the Meskwaki and other tribes had been under constant pressure to abandon their traditional languages and cultures.

The use of these codes is credited with saving countless lives. Until recently, however, only the Navajos and the Navajo code were given broad recognition and credit. But, in fact, at least 17 other tribes, including Iowa's Meskwaki, served as code talkers during the Second World War.

Congress has already recognized the courageous service of Navajo code talkers. And by passing S. 1035, the Code Talkers Recognition Act, last night, we are recognizing the service and sacrifice of all the code talkers and awarding congressional commemorative medals to these heroes.

I thank Senators FRIST, SHELBY, and SARBANES for allowing this important and historic legislation to move forward and the bipartisan effort from Senators INHOFE, JOHNSON, THUNE, and GRASSLEY in gaining 79 cosponsors.

ADDITIONAL STATEMENTS

TRIBUTE TO JOHN RIPLEY FORBES

● Mr. CHAMBLISS. Mr. President, today I wish to honor the memory of an extraordinary naturalist, conservationist, educator, father, and husband who devoted his life to sharing his love of nature with communities across the country. John Ripley Forbes lived in Georgia for over 30 years, and Georgians of all ages have been blessed by his delightful approach to nature, science, and learning.

Mr. Forbes was born in Massachusetts in 1913. From a very early age, he was fascinated during nature walks with his father and knew that he wanted to study nature for the rest of his life. At the age of 14, he became the protege of his neighbor, famed naturalist William Temple Hornaday. While still in his teens, John Ripley Forbes guided visitors through his personal nature collection at the Bruce Museum of Arts and Sciences in Greenwich, CT. After studying zoology and ornithology for a time at Iowa State University and Bowdoin College, he worked as an ornithological collector on explorer Donald Baxter MacMillan's 1937 expedition to Baffin Island. Fifty years later, in 1987, Bowdoin would award him an honorary doctorate degree.

Mr. Forbes continually combined his knowledge and experience as a naturalist with his enthusiastic focus on children's education. After Hornaday's death, John established and presided over the William T. Hornaday Foundation to underwrite children's museums around the United States. The organization became one of John's legacies, the Natural Science for Youth Foundation. He also worked to build museums from Naples, FL, to Sacramento, CA. In each one, he created fascinating opportunities for children to experience nature whether through habitat trails, wildlife preserves, or even animal lending libraries, which allowed children to ''check out'' small animals for a few days at a time. During his years of work through the foundation and whenever opportunities arose, Mr. Forbes helped found and build a national network of over 200 children's museums and nature centers where, frequently, exhibits interact with visitors as much as the visitors interact with them.

John Ripley Forbes was known for his ability to charm donations from even the most intimidating people. His wife explained, ''He would meet some of these people like the Rockefellers, and they were just enchanted with his enthusiasm to do the right thing.'' He used this charisma for more than contributions. Mr. Forbes served at military bases in Alabama and Tennessee during World War II and supported returned airmen through simple fishing trips or nature walks. In his spare time, he would work with established natural history museums to fill new children's museums with thousands of donated specimens.

He also used his boundless energy and charm to preserve nature in its original form. Shortly after moving to Georgia in 1971, he became focused on the preservation of Atlanta's shrinking natural habitats. Mr. Forbes founded the Southeast Land Preservation Trust to shield green space from a rapidly growing real estate market and was determined to reason with developers and work out solutions that were mutually beneficial.

John Ripley Forbes exercised his passion for education and preservation through these many projects, and our future generations will reap and enjoy the results. I am grateful to people like him who, with their enthusiasm and energy, make a difference in the community and in the lives of others. His legacy will live for many generations through the work and accomplishments he left behind.

John Ripley Forbes is survived by his wife Margaret, his son Ernest Ripley Forbes of Alexandria, VA, his daughter Anne Forbes Spengler of Atlanta, and two grandchildren.

I join with them and all Georgians in mourning his passing and remembering and appreciating the contribution he made to our communities, our State, and to the lives of the many people he touched.●

TRIBUTE TO DOROTHY C. STRATTON

● Mr. LUGAR. Mr. President, today I honor and remember Dorothy C. Stratton, founder of the Women's Reserve for the Coast Guard during World War II and a strong proponent of women's education throughout her lifetime.

Dr. Stratton became the first full-time Dean of Women at Purdue University in 1933. During her tenure at Purdue, Dr. Stratton saw the enrollment of women students increase from 500 to over 1,400. In addition, a liberal science program for women in the School of Science was inaugurated, three modern residence halls for women were constructed, and an employment placement center for Purdue women was instituted.

In 1942, she was commissioned a senior lieutenant in the U.S. Navy. Later in 1942, she transferred to the U.S. Coast Guard where she created and became the first director of the Women's Reserve of the U.S. Coast Guard in World War II. Upon being named director, she was promoted to lieutenant commander in 1942 and advanced to commander in January 1944 and to the grade of captain 1 month later. She was awarded the Legion of Merit medal for her contributions to women in the military upon retirement in 1946.

Dr. Stratton then became the first director of personnel at the International Monetary Fund followed by service as executive director of the Girl Scouts of the U.S.A. She was the United Nations representative of the International Federation of University Women and chairman of the Women's Committee within the President's Commission on Employment of the Handicapped.

Please join me in honor and remembrance of Dorothy C. Stratton. I offer my deep condolences to all her family and friends, and to the many who have been inspired and touched by all that she has given.●

PATTEN SEED COMPANY

● Mr. CHAMBLISS. Mr. President, it is with great pride that today I honor the past and recent success of a great agribusiness in my home State of Georgia, Patten Seed Company. Patten Seed Company was recently named the 2006 Agribusiness of the Year by South Georgia Business magazine for its continued success in the agribusiness community.

The lasting success of Patten Seed Company was also recognized when the company received the Cox Century Award. Representatives of the Cox Family Enterprise Center at the Coles College of Business at Kennesaw State University present the Cox Century Award to Georgia businesses based on their commitments to business and family, contributions to their industry and community, multigenerational family involvement, and innovative business practices and strategies.

The history of the Patten Seed Company dates back to 1893 when R.L. Patten and his brother W.F. Patten opened a general store in Lakeland, GA. After much success with the general store, Lawson Patten, R.L's son, began to operate a seed cleaning business out of one of his father's warehouses in 1947. In 1954, Patten Seed Company was incorporated and over the last 52 years has become a household name in the turfgrass, sod, and seed industry.

Patten Seed Company's expansive operation covers 25 facilities across four States and has over 15,000 acres of grass seed and sod farm land in the Southeast. Sod from Patten Seed Company can be found in many places, from small South Georgia lawns to the Atlantis Resort in the Bahamas.

I am sincerely proud of the recognition that has been accorded to Patten Seed Company. Lakeland, GA, where Patten Seed Company originated, is not too far from my hometown of Moultrie. I see signs for one of Patten Seed Company's subsidiaries, SuperSod, whenever I drive north or south on Interstate 75.

The success of agribusinesses like Patten Seed Company, which operates not only in Georgia but throughout the Southeast, is newsworthy. I thank my colleagues for giving me the opportunity to recognize this great agribusiness.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO PERSONS WHO COMMIT, THREATEN TO COMMIT, OR SUPPORT TERRORISM THAT WAS ESTABLISHED IN EXECUTIVE ORDER 13224 ON SEPTEMBER 21, 2006—PM 56

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the national emergency with respect to persons who commit, threaten to commit, or support terrorism is to continue in effect beyond September 23, 2006. The most recent notice continuing this emergency was published in the *Federal Register* on September 22, 2005 (70 FR 55703).

The crisis constituted by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks in New York, in Pennsylvania, and against the Pentagon of September 11, 2001, and the continuing and immediate threat of further attacks on United States nationals or the United States that led to the declaration of a national emergency on September 23, 2001, has not been resolved. These actions pose a continuing unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For these reasons, I have determined that it is necessary to continue the national emergency declared with respect to persons who commit, threaten to commit, or support terrorism, and maintain in force the comprehensive sanctions to respond to this threat.

GEORGE W. BUSH.

THE WHITE HOUSE, *September 21, 2006*.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 9:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker had signed the following enrolled bill:

H.R. 5684. An act to implement the United States-Oman Free Trade Agreement.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

At 1:01 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 bills, in which it requests the concurrence of the Senate:

H.R. 2334. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design,

planning, and construction of permanent facilities for the GREAT project to reclaim, reuse, and treat impaired waters in the area of Oxnard, California.

H.R. 4586. An act to extend the life of the Benjamin Franklin Tercentenary Commission.

H.R. 4653. An act to repeal a prohibition on the use of certain funds for tunneling in certain areas with respect to the Los Angeles to San Fernando Valley Metro Rail project, California.

H.R. 4768. An act to designate the facility of the United States Postal Service located at 777 Corporation Street in Beaver, Pennsylvania, as the ''Robert Linn Memorial Post Office Building''.

H.R. 4844. An act to amend the Help America Vote Act of 2002 to require each individual who desires a vote in an election for Federal office to provide the appropriate election official with a government-issued photo identification, and for other purposes.

H.R. 4957. An act to direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center to the State of Pennsylvania, and for other purposes.

H.R. 5450. An act to provide for the National Oceanic and Atmospheric Administration, and for other purposes.

H.R. 5664. An act to designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the ''Jacob Samuel Fletcher Post Office Building''.

The message also announced that the House passed the following bills, without amendment:

S. 260. An act to authorize the Secretary of the Interior to provide technical and financial assistance to private landowners to restore, enhance, and manage private land to improve fish and wildlife habitats through the Partners for Fish and Wildlife Program.

S. 418. An act to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products.

S. 1025. An act to amend the Act entitled ''An Act to provide for the construction of the Cheney division, Wichita Federal reclamation project, Kansas, and for other purposes'' to authorize the Equus Beds Division of the Wichita Project.

The message further announced that the House agrees to the amendment of the Senate to the bill (H.R. 3858) to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that State and local emergency preparedness operational plans address the needs of individuals with household pets and service animals following a major disaster or emergency.

At 5:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4830. An act to amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or reckless permitting (on one's land) the construction or use of a tunnel or subterranean passageway between the United States and another country.

H.R. 6094. An act to restore the Secretary of Homeland Security's authority to detain dangerous aliens, to ensure the removal of deportable criminal aliens, and combat alien gang crime.

H.R. 6095. An act to affirm the inherent authority of State and local law enforcement to assist in the enforcement of immigration laws, to provide for effective prosecution of alien smugglers, and to reform immigration litigation procedures.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROGERS of Kentucky, Mr. WAMP, Mr. LATHAM, Mrs. EMERSON, Mr. SWEENEY, Mr. KOLBE, Mr. ISTOOK, Mr. CRENSHAW, Mr. CARTER, Mr. LEWIS of California, Mr. SABO, Mr. PRICE of North Carolina, Mr. SERRANO, Ms. ROYBAL-ALLARD, Mr. BISHOP of Georgia, Mr. BERRY, Mr. EDWARDS, and Mr. OBEY, as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5631) making appropriations for the Department of Defense for the fiscal year ending September 30, 2007, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. YOUNG of Florida, Mr. HOBSON, Mr. BONILLA, Mr. FRELINGHUYSEN, Mr. TIAHRT, Mr. WICKER, Mr. KINGSTON, Ms. GRANGER, Mr. LAHOOD, Mr. LEWIS of California, Mr. MURTHA, Mr. DICKS, Mr. SABO, Mr. VISCLOSKY, Mr. MORAN of Virginia, Ms. KAPTUR, and Mr. OBEY, as managers of the conference on the part of the House.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 2334. To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of permanent facilities for the GREAT project to reclaim, reuse, and treat impaired waters in the area of Oxnard, California; to the Committee on Energy and Natural Resources.

H.R. 4586. To extend the life of the Benjamin Franklin Tercentenary Commission; to the Committee on Energy and Natural Resources.

H.R. 4653. An act to repeal a prohibition on the use of certain funds for tunneling in certain areas with respect to the Los Angeles to San Fernando Valley Metro Rail project, California; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 4768. An act to designate the facility of the United States Postal Service located at 777 Corporation Street in Beaver, Pennsylvania, as the ''Robert Linn Memorial Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4830. An act to amend chapter 27 of title 18, United States Code, to prohibit the unauthorized construction, financing, or reckless permitting (on one's land) the construction or use of a tunnel or subterranean passageway between the United States and another country; to the Committee on the Judiciary.

H.R. 5450. An act to provide for the National Oceanic and Atmospheric Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5664. To designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the ''Jacob Samuel Fletcher Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 6094. An act to restore the Secretary of Homeland Security's authority to detain dangerous aliens, to ensure the removal of deportable criminalaliens, and combat alien gang crime; to the Committee on the Judiciary.

H.R. 6095. An act to affirm the inherent authority of State and local law enforcement to assist in the enforcement of immigration laws, to provide for effective prosecution of alien smugglers, and to reform immigration litigation procedures; to the Committee on the Judiciary.

The following bill was read, and referred as indicated:

H.R. 2965. An act to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a five-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations and other public service programs, and for other purposes; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 503. An act to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 4957. To direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish Technology Center to the State of Pennsylvania, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 3925. A bill to provide certain authorities for the Secretary of State and the Broadcasting Board of Governors, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, and were referred as indicated:

EC–8390. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Buprofezin; Pesticide Tolerance'' (FRL No. 8092–2) received on September 20, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8391. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Ethaboxam; Pesticide Tolerance'' (FRL No. 8091–5) received on September 20, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8392. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fenamidone; Pesticide Tolerance for Emergency Exemption'' (FRL No. 8093–3) received on September 20, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8393. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fenbuconazole; Pesticide Tolerances'' (FRL No. 8093–9) received on September 20, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8394. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Propiconazole; Pesticide Tolerance'' (FRL No. 8092–1) received on September 20, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8395. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Trifloxystrobin; Pesticide Tolerance'' (FRL No. 8093–8) received on September 20, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8396. A communication from the Regulatory Analyst, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''United States Standards for Soybeans'' (RIN0580–AA90) received on September 21, 2006; to the Committee on Agriculture, Nutrition, and Forestry.

EC–8397. A communication from the Deputy Chief of Legislative Affairs, Department of the Navy, transmitting, a report relative to the Department's plan to perform a standard A–76 competition; to the Committee on Armed Services.

EC–8398. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, (12) reports relative to vacancy announcements within the Department, received on September 21, 2006; to the Committee on Armed Services.

EC–8399. A communication from the Assistant Secretary of Defense (Health Affairs), transmitting, pursuant to law, a report relative to the role of military medical and behavioral science personnel in interrogations; to the Committee on Armed Services.

EC–8400. A communication from the Principal Deputy, Office of the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report of (2) officers authorized to wear the insignia of the grade of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC–8401. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report relative to the national emergency and related measures blocking property of persons undermining democratic processes or institutions in Zimbabwe that was declared in Executive Order 13288; to the Committee on Banking, Housing, and Urban Affairs.

EC–8402. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report relative to the national emergency declared in Executive Order 13224; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 2781. A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works (Rept. No. 109-345).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, without amendment:

H.R. 5074. A bill to amend the Railroad Retirement Act of 1974 to provide for continued payment of railroad retirement annuities by the Department of the Treasury, and for other purposes.

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

H.R. 5187. A bill to amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007.

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 394. A bill to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment and an amendment to the title:

S. 3867. A bill to designate the Federal courthouse located at 555 Independence Street, Cape Girardeau, Missouri, as the ''Rush H. Limbaugh, Sr., Federal Courthouse''.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. SPECTER for the Committee on the Judiciary.

Norman Randy Smith, of Idaho, to be United States Circuit Judge for the Ninth Circuit.

Philip S. Gutierrez, of California, to be United States District Judge for the Central District of California.

Valerie L. Baker, of California, to be United States District Judge for the Central District of California.

Francisco Augusto Besosa, of Puerto Rico, to be United States District Judge for the District of Puerto Rico.

Lawrence Joseph O'Neill, of California, to be United States District Judge for the Eastern District of California.

Rodger A. Heaton, of Illinois, to be United States Attorney for the Central District of Illinois for the term of four years.

(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. SESSIONS:

S. 3916. A bill to expand the boundaries of the Cahaba River National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

By Mr. BURR:

S. 3917. A bill to establish the American-Made Energy Trust Fund, to increase the tax credits for cellulosic biomass ethanol, to extend tax incentives for solar and fuel cell property, to promote coal-to-liquid fuel activities, to direct the Secretary of the Interior to establish and implement a competitive oil and gas leasing program for the Coastal Plain of Alaska, and for other purposes; to the Committee on Finance.

By Mrs. CLINTON (for herself, Mr. SCHUMER, and Mr. KENNEDY):

S. 3918. A bill to establish a grant program for individuals still suffering health effects as a result of the September 11, 2001, attacks in New York City and at the Pentagon; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KERRY:

S. 3919. A bill to assist small business concerns in complying with the Sarbanes-Oxley Act of 2002; to the Committee on Small Business and Entrepreneurship.

By Mr. HATCH (for himself and Mr. CONRAD):

S. 3920. A bill to amend part B of title XVIII of the Social Security Act to assure access to durable medical equipment under the Medicare Program; to the Committee on Finance.

By Mr. McCAIN:

S. 3921. A bill to modify the calculation of back pay for persons who were approved for promotion as members of the Navy and Marine Corps while interned as prisoners of war during World War II to take into account changes in the Consumer Price Index; to the Committee on Armed Services.

By Ms. MURKOWSKI (for herself, Ms. STABENOW, and Mr. AKAKA):

S. 3922. A bill to clarify the status of the Young Woman's Christian Association Retirement Fund as a defined contribution plan for certain purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HATCH (for himself and Mrs. FEINSTEIN):

S. 3923. A bill to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself, Mrs. MURRAY, Mr. BINGAMAN, and Ms. MIKULSKI):

S. 3924. A bill to amend title XXI of the Social Security Act to allow qualifying States to use all or any portion of their allotments under the State Children's Health Insurance Program for certain Medicaid expenditures; to the Committee on Finance.

By Mr. LUGAR:

S. 3925. A bill to provide certain authorities for the Secretary of State and the Broadcasting Board of Governors, and for other purposes; read the first time.

By Mr. SANTORUM:

S. 3926. A bill to provide for the energy, economic, and national security of America, and for other purposes; to the Committee on Finance.

By Mrs. BOXER:

S. 3927. A bill to require the placement of blast-resistant cargo containers on all commercial passenger aircraft; to the Committee on Commerce, Science, and Transportation.

By Mrs. BOXER:

S. 3928. A bill to provide for the Office of Domestic Preparedness of the Department of Homeland Security to provide grants to local governments for public awareness education relating to preparedness for natural disasters, terrorist attacks, and influenza pandemic; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. KERRY:

S. Res. 578. A resolution recognizing that the occurrence of prostate cancer in African American men has reached epidemic proportions and urging Federal agencies to address that health crisis by designating funds for education, awareness outreach, and research specifically focused on how that disease affects African American men; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MIKULSKI (for herself and Mr. SANTORUM):

S. Res. 579. A resolution designating December 13, 2006, as a Day of Remembrance to honor the 25th anniversary of the imposition of martial law by the Communist government in Poland; considered and agreed to.

By Mr. CHAMBLISS:

S. Res. 580. A resolution recognizing the importance of pollinators to ecosystem health and agriculture in the United States and the value of partnership efforts to increase awareness about pollinators and support for protecting and sustaining pollinators by designating June 24 through June 30, 2007, as ''National Pollinator Week''; considered and agreed to.

By Mr. BUNNING (for himself, Mr. INHOFE, and Mr. VITTER):

S. Res. 581. A resolution condemning the anti-democratic actions of President Hugo Chavez and admonishing the statements made by him to the United Nations General Assembly on September 20, 2006; to the Committee on Foreign Relations.

By Mr. CORNYN (for himself and Mrs. HUTCHISON):

S. Con. Res. 117. A concurrent resolution officially designating the National Museum of the Pacific War in Fredericksburg, Texas, as The National Museum of the Pacific War; to the Committee on Energy and Natural Resources.

ADDITIONAL COSPONSORS

S. 65

At the request of Mr. INHOFE, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 334

At the request of Mr. DORGAN, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 334, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 1110

At the request of Mr. ALLEN, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 1110, a bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

S. 1132

At the request of Mr. COLEMAN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1132, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage for treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1607

At the request of Mr. LAUTENBERG, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 1607, a bill to amend section 10501 of title 49, United States Code, to exclude solid waste disposal from the jurisdiction of the Surface Transportation Board.

S. 2010

At the request of Mr. HATCH, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2071

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2071, a bill to amend title XVIII of the Social Security Act to clarify congressional intent regarding the counting of residents in the nonhospital setting under the medicare program.

S. 2154

At the request of Mr. OBAMA, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 2154, a bill to provide for the issuance of a commemorative postage stamp in honor of Rosa Parks.

S. 2284

At the request of Ms. MIKULSKI, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 2284, a bill to extend the termination date for the exemption of returning workers from the numerical limitations for temporary workers.

S. 2340

At the request of Mr. SPECTER, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2340, a bill to amend title XVIII of the Social Security Act to preserve access to community cancer care by Medicare beneficiaries.

S. 2491

At the request of Mr. CORNYN, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2585

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2585, a bill to amend the Internal Revenue Code of 1986 to permit military death gratuities to be contributed to certain tax-favored accounts.

S. 2599

At the request of Mr. VITTER, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2599, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prohibit the confiscation of firearms during certain national emergencies.

S. 2679

At the request of Mr. TALENT, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 2679, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice, and an Unsolved Civil Rights Crime Investigative Office in the Civil Rights Unit of the Federal Bureau of Investigation, and for other purposes.

S. 3128

At the request of Mr. BURR, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 3128, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 3238

At the request of Mr. CORNYN, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 3238, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the establishment of the National Aeronautics and Space Administration and the Jet Propulsion Laboratory.

S. 3491

At the request of Mr. VOINOVICH, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 3491, a bill to establish a commission to develop legislation designed to reform tax policy and entitlement benefit programs and to ensure a sound fiscal future for the United States, and for other purposes.

S. 3523

At the request of Mrs. FEINSTEIN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 3523, a bill to amend the Internal Revenue Code of 1986 to provide that the Tax Court may review claims for equitable innocent spouse relief and to suspend the running on the period of limitations while such claims are pending.

S. 3535

At the request of Mr. TALENT, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 3535, a bill to modernize and update the National Housing Act and to enable the Federal Housing Administration to use risk based pricing to more effectively reach underserved borrowers, and for other purposes.

S. 3609

At the request of Mrs. LINCOLN, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 3609, a bill to amend title XVIII of the Social Security Act to provide for the treatment of certain physician pathology services under the Medicare program.

S. 3727

At the request of Mr. KOHL, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 3727, a bill to amend title XVIII of the Social Security Act to provide for an adjustment to the reduction of Medicare resident positions based on settled cost reports.

S. 3744

At the request of Mr. DURBIN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 3744, a bill to establish the Abraham Lincoln Study Abroad Program.

S. 3771

At the request of Mr. HATCH, the names of the Senator from Ohio (Mr. VOINOVICH), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 3771, a bill to amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act.

S. 3791

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 3791, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

S. 3844

At the request of Mr. NELSON of Nebraska, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 3844, a bill to provide for the investment of all funds collected from the tariff on imports of ethanol in the research, development, and deployment of biofuels, especially cellulosic ethanol produced from biomass feedstocks.

S. 3882

At the request of Mr. KYL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3882, a bill to amend title 18, United States Code, to support the war on terrorism, and for other purposes.

S. 3884

At the request of Mr. LUGAR, the names of the Senator from Texas (Mr. CORNYN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. 3884, a bill to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

S. 3887

At the request of Mr. DORGAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3887, a bill to prohibit the Internal Revenue Service from using private debt collection companies, and for other purposes.

S. 3913

At the request of Mr. MENENDEZ, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 3913, a bill to amend title XXI of the Social Security Act to eliminate funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007.

At the request of Mr. ROCKEFELLER, the names of the Senator from Rhode Island (Mr. CHAFEE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 3913, supra.

S. RES. 553

At the request of Mr. MENENDEZ, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 553, a resolution expressing the sense of the Senate that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that a commemorative postage stamp be issued in honor of Varian Fry.

AMENDMENT NO. 5021

At the request of Mrs. BOXER, her name was added as a cosponsor of amendment No. 5021 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

AMENDMENT NO. 5022

At the request of Mrs. BOXER, her name was added as a cosponsor of amendment No. 5022 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY:

S. 3919. A bill to assist small business concerns in complying with the Sarbanes-Oxley Act of 2002; to the Committee on Small Business and Entrepreneurship.

Mr. KERRY. Mr. President, in order for the United States to continue to stand for the fairest, most transparent and efficient financial markets in the world, I believe we must provide assistance to America's small public companies in their efforts to comply with the Sarbanes-Oxley Act.

Just a few years ago, the trust and confidence of the American people in their financial markets was dangerously eroded by the emergence of serious accounting irregularities by some companies and possible fraudulent actions by corporations like WorldCom, Inc., Enron, Arthur Andersen and others. The shocking malfeasance by these businesses and accounting firms put a strain on the growth of our economy. The misconduct by a few senior executives has cost the jobs of thousands of hard-working Americans. The lack of faith in our financial markets contributed to an overall decline in stock values and has caused grave losses to individual investors and pension funds.

By all accounts, Sarbanes-Oxley has been effective in bringing accountability to corporate governance, auditing, and financial reporting for public companies. The dark days of the Enron scandal have given way to a new corporate culture that embraces responsibility and transparency, and for this we have Sarbanes-Oxley to thank. Sarbanes-Oxley has helped restore confidence in our capital markets and helped improve our nation's future economic growth.

However, with compliance also comes cost. And while the cost of complying with the law is small enough to be absorbed by larger corporations, smaller public companies, particularly small minority public companies, have been disproportionately affected by these costs. Small business is the engine of economic growth in our Nation. Almost 60 percent of Americans are employed by small businesses. Small business growth has been critical in developing the high wage jobs for America's future.

Unfortunately, an April 2006 report to the Senate Committee on Small Business and Entrepreneurship by the United States Government Accountability Office (GAO) found that small public firms are incurring much higher audit fees and increased costs in complying with the Sarbanes-Oxley Act.

The report finds that of the 2,263 public firms with market capitalization of less than $75 million, just 66 have fully implemented Section 404 of the law that requires firms to construct formal internal control frameworks and filed internal control reports. These 66 firms reported paying $1.14 in audit fees per $100 of revenue, compared to just $.13 per $100 for firms with greater than $1 billion in market capitalization. I believe we must take action to help small

companies comply with the regulatory burdens of the Sarbanes-Oxley Act.

In addition to the costs associated with internal controls, 81 percent of small firms responding to the GAO survey said they brought in outside consultants to comply with the Act. Nearly half of the small firms reported ''opportunity costs'' related to complying with the regulatory burden placed on them by the Sarbanes-Oxley Act such as deferring or canceling operational improvements, and more than one-third of respondents were forced to defer or cancel information technology investments. Too many small firms simply do not have the resources and expertise necessary to implement the formal internal control frameworks required by Section 404, and as a result, they are disadvantaged compared to larger firms that are absorbing these costs.

The U.S. Securities and Exchange Commission has provided a lengthy compliance period for small businesses to comply with the Sarbanes-Oxley regulations and is attempting to develop additional methods to ease the regulatory burden. However, I believe additional efforts are needed.

In order to assist these firms with the increased costs of implementation and help our small businesses keep our economy moving forward, I am introducing the Small Business Sarbanes-Oxley Compliance Assistance Act of 2006. The bill would authorize the U.S. Small Business Administration to award grants to small public companies and small business concerns to help lessen the burden of these costs. If Congress is asking these small firms to bear the burden of cost for compliance with Sarbanes-Oxley, the least we can do is chip in and help pay for it. My legislation authorizes $5 million to be awarded annually through 2011.

My legislation also creates a task force, assembled by the SBA Chief Counsel for Advocacy, and comprising of representatives from the SEC and other appropriate bank regulatory agencies, to report semi-annually on how to assist small public companies in complying with Sarbanes-Oxley. My hope is that this task force will continually find new ways to lift the regulatory burden on small businesses attempting to comply with the law. Each report of the task force will be required to evaluate upgrades or alternatives to the SEC's Electronic Data Gathering Analysis Retrieval System so that companies might submit filings to the SEC without the need for third party intervention. The task force will also report on the potential to reduce inefficiencies related to SEC filings; the feasibility of synchronizing filing requirements for substantially similar small firms; whether the SEC and bank regulatory agencies should commit additional resources to aiding small public firms with filing requirements; whether the SEC needs to publish guidance on reporting and legal requirements aimed at assisting smaller public firms; and the feasibility of extending incorporation by reference privileges to other Government filings containing equivalent information.

This legislation will help some but not all of the thousands of small firms that are public or hope to become public. As more information becomes available, I am hopeful that the task force will provide ideas on how the SEC can help more of the small, non-accelerated filers implement the Sarbanes-Oxley regulations. We must do all we can to insure that small firms can demonstrate that transparency and accountability in the private sector is thriving without having to incur such a burdensome cost. This legislation is supported by the National Black Chamber of Commerce as well as Small Business Majority. I ask all my colleagues to support this legislation.

By Mr. HATCH (for himself and Mr. CONRAD):

S. 3920. A bill to amend part B of title XVIII of the Social Security Act to assure access to durable medical equipment under the Medicare Program; to the Committee on Finance.

Mr. HATCH. Mr. President, today I am pleased to introduce the Medicare Durable Medical Equipment Access Act with my colleague Senator KENT CONRAD of North Dakota. This bill makes several modest changes to the competitive acquisition process for this equipment.

In 2007, a competitive acquisition program will replace the current reimbursement policy for durable medical equipment in Medicare. This shift toward a market-based approach to payments for durable medical equipment was mandated through the Medicare Modernization Act (MMA) of 2003.

Our bill was written with two key goals in mind. The Medicare Durable Medical Equipment Access Act would preserve access to home medical equipment in rural areas for older or disabled Americans who need this equipment. In addition, the bill will allow small businesses that provide homecare equipment to continue to participate in the Medicare Program if they qualify and meet the competitively bid price.

Our legislation is identical to H.R. 3559 which was introduced earlier this Congress by Congressmen DAVID HOBSON and JOHN TANNER. That bill has broad, bipartisan support and 132 House cosponsors.

As background, section 302(b)(I) of the MMA requires Medicare to replace the current durable medical equipment payment methodology for certain items with a competitive acquisition process beginning in 2007 in 10 of the largest metropolitan statistical areas (MSAs).

The Medicare Durable Medical Equipment Access Act would require several modest changes to the competitive acquisition program.

First, the MMA requires the Secretary to include quality standards in the competitive acquisition process and also allows the Secretary to waive the application of quality standards if applying the standards would delay implementation of the process. However, quality standards are essential to ensuring that beneficiaries are not forced to use the lowest-cost provider without consideration of the quality of the medical equipment items provided. This bill would require the Secretary to include quality standards before implementing competitive acquisition.

Second, the MMA allows the Secretary to exempt rural areas and urban areas with low population density to ensure that competitive acquisition is not implemented in areas that lack the health care infrastructure to support it. This bill would require the Secretary to exempt MSAs with fewer than 500,000 people.

Third, the MMA created a Program Advisory and Oversight Committee composed of stakeholders to advise the Secretary on the implementation of competitive acquisition. However, the MMA does not apply the Federal Advisory Committee Act (FACA) to it. The purpose of FACA is to ensure that advice rendered to the executive branch by advisory committees be both objective and accessible to the public. This bill would apply FACA to this oversight committee.

Fourth, the MMA allows the Secretary to contract with only as many providers as the Secretary deems necessary to meet the demand of an area. Any provider not awarded a contract would be prohibited from participating in Medicare for up to 3 years. This bill would allow applicable small businesses that did not receive a contract to continue to provide durable medical equipment in Medicare at the competitive acquisition bid rate.

Fifth, the MMA explicitly prohibited administrative or judicial review for competitive acquisition of DME. This means that providers do not have legal recourse to appeal the bid amount or contracts. My bill would restore appeal rights for competitive acquisition of DME. These rights exist elsewhere in the Medicare program.

Sixth, under the MMA, the Secretary can only competitively acquire an item if the Secretary believes that doing so would result in significant savings to Medicare. It is important for the Secretary to show that the savings from competitive acquisition justify constructing a bureaucracy to implement the program. To that end, this bill would require the Secretary to show that competitive acquisition would result in savings of at least 10 percent.

Finally, under the MMA, the Secretary can use competitive acquisition bid rates in one MSA to set the reimbursement for another MSA. Our bill would require that, before doing so, the Secretary conduct a comparability analysis of the two MSAs. This will help prevent any applications of bid rates outside of an MSA that are inappropriate.

The new, market-based competitive acquisition program in Medicare is designed to save money and make Medicare more efficient. In order to achieve this goal, we need to preserve access to care and preserve the cost-effective health care infrastructure that homecare represents. This bill will help ensure that the market reforms enacted by the MMA accomplish both cost savings and continued access to cost-effective care.

Before I close, I would like to give a real life example from my home state of Utah on why this legislation is needed and necessary. A small provider of durable medical equipment in Utah approached me about how current law will impact him. This company was established in 1997 with just one employee. It has grown over the years by providing its customers the products that they need to stay at home and out of the hospitals.

When competitive bidding hits the State of Utah in 2007, this small company will be forced to bid against large national companies. Much larger companies compete with the smaller ones to provide medical equipment such as wheelchairs, in home hospital beds, and home oxygen. If my Utah company loses the bid, it will go out of business, as will many of its smaller competitors in Utah. This company prides itself on being able to provide customers with a high quality of service. The owner of the company has asked me how he can continue to provide great service when his company has been forced to bid to the lowest price possible just to keep from going out of business.

Therefore, this legislation means a lot to small companies not just in Utah, but all over the country, by allowing them to continue to provide medical equipment to those who need it.

I heard from several small medical equipment companies in my home State of Utah for several years on this issue and they made very convincing arguments. That is why I am introducing the Medicare Durable Medical Equipment Access Act. I strongly urge my colleagues to talk to their constituents back home who own small durable medical equipment companies. I am certain that these companies are experiencing concerns similar to those shared with me.

I urge my colleagues to cosponsor this legislation so that Medicare beneficiaries will continue to receive quality care at affordable prices for their medical supplies.

Mr. CONRAD. Mr. President, today I am pleased to join my colleague, Senator HATCH, in introducing the Medicare Durable Medical Equipment (DME) Access Act. This bill responds to the concerns I heard from seniors and suppliers in North Dakota about the negative impact competitive bidding could have on the ability of DME suppliers in rural States to remain viable. The bill we introduce today is designed to preserve access to DME in rural areas.

The Medicare Modernization Act (MMA) required Medicare to replace the current DME payment methodology for certain items with a competitive acquisition process beginning in 2007 in 10 of the largest metropolitan statistical areas (MSAs). The Medicare Durable Medical Equipment Access Act would require several modest changes to the competitive acquisition program to help preserve access to medical equipment in rural areas.

First, our bill would build upon language in the MMA that allows the Secretary to exempt rural areas to prevent these beneficiaries from losing access to needed medical equipment. Specifically, it would require the Secretary to exempt MSAs with fewer than 500,000 people.

Second, the MMA allows the Secretary to waive the application of quality standards in the competitive acquisition process if applying the standards would delay implementation. Our bill would ensure that quality standards are included when determining the winning bid to ensure that patients receive both high-quality and low-cost equipment.

Third, in creating the competitive acquisition program, the Secretary may contract with only as many providers as deemed necessary to meet demand in an area. Any provider not awarded a contract would be prohibited from participating in Medicare for up to three years. This bill would allow certain small businesses to continue providing DME in Medicare at the competitive acquisition bid rate, allowing them to offer in-person care to Medicare beneficiaries.

Fourth, under the MMA, the Secretary can use competitive acquisition bid rates in one MSA to set the reimbursement for another MSA. Our bill would require that the Secretary compare the two to ensure that the bid rates aren't inappropriately applied.

Finally, the Medicare Durable Medical Equipment Access Act would take additional steps to ensure that competitive acquisition results in savings, that providers have access to administrative and judicial review, and that any meetings of the newly created CMS Program Advisory and Oversight Committee on competitive bidding be open to the public.

These provisions are small steps, but they will ensure that beneficiaries in rural areas have access to the medical equipment they need. While we should pursue options for making the Medicare program more efficient, we must also protect access to care. I believe this bill achieves the appropriate balance between these two goals. I urge all of my colleagues to support this important legislation.

By Mr. MCCAIN:

S. 3921. A bill to modify the calculation of back pay for persons who were approved for promotion as members of the Navy and Marine Corps while interned as prisoners of war during World War II to take into account changes in the Consumer Price Index; to the Committee on Armed Services.

Mr. MCCAIN. Mr. President, today I am introducing the World War II POW Pay Equity Act of 2006. This legislation would ensure that former World War II Prisoners of War, or their surviving spouses, receive the appropriate back pay for their honorable service, adjusted for inflation.

Due to a technicality, Navy and Marine Corps POWs during World War II were denied promotions while they were interned. The Fiscal Year 2001 National Defense Authorization Act included provisions to correct this injustice. Unfortunately, this legislation did not specify an adjustment for inflation. The result was that these heroes of our ''greatest generation'' were paid in 1942 dollars which roughly equated to ten cents on the current dollar. It is well past time to properly compensate them for their dedicated service.

When our great Nation called upon these brave individuals, they answered the call. Now they need our help to fix a technicality that has denied them the full amount of the back-pay they are due, pay that was earned in the harshest of environments. Many of these WWII veterans suffer from extreme financial distress. The total number of surviving WWII POWs is now less than 1,000, and there are approximately 400 surviving spouses. We cannot abandon those who were truly responsible for defending the liberties we hold so dear. It would be shameful for Congress and our Nation not to compensate fairly these veterans, as this is a debt that our country incurred during their internment as POWs.

The impact of this legislation goes well beyond those who have so bravely gone before us in defense of our Nation. This is a readiness issue as well. Today's service members are acutely aware of the manner in which our Nation honors its veterans. President George Washington reminded all of his fellow Americans of the keen relationship between our Nation's veterans and those on active duty when he said, ''The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the Veterans of earlier wars were treated and appreciated by their country.'' That statement holds just as true today as it did over 200 years ago.

I urge my colleagues to support this legislation.

By Ms. MURKOWSKI (for herself, Ms. STABENOW, and Mr. AKAKA):

S. 3922. A bill to clarify the status of the Young Woman's Christian Association Retirement Fund as a defined contribution plan for certain purposes; to the Committee on Health, Education, Labor, and Pensions.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will clarify the legal status of the Young Women's Christian Association's Retirement Fund.

The YWCA Retirement Fund is one of the oldest pension plans serving the retirement needs of women. This bill will help protect the retirement security of thousands of YWCA employees nationwide who serve well over a million users.

Whether it is providing day care for working mothers, keeping a battered women's shelter open, or meeting the other pressing needs of women in our communities, the YWCA has a long tradition of service. Those who work at our local YWCAs deserve to know that their retirement plan is secure.

Today, the YWCA Retirement Fund is a unique pension program. First, approximately 90 percent of its participants are women. Second, it is a multiple employer pension plan—one that relies on 300 local YWCAs to make funding contributions. And lastly, since it was established in 1924, the pension plan's structure has remained generally unchanged—it is partially a defined benefit plan, and partially a defined contribution plan.

Recently, some employers have transformed their traditional defined benefit pension plans into various types of ''hybrid'' plans, and in the process, some have reduced the rate at which benefits accrue for their older workers. Older workers have successfully challenged some of these arrangements as age discriminatory. During its more than 80-year history, the YWCA Retirement Fund has never treated any worker differently based on age or longevity of employment. Most of the controversy surrounding these plans focuses on how employers treat certain participants when they convert their pre-existing pension plans. But the YWCA pension program never converted—its basic structure has remained the same since it was established 1924.

The success of some of these lawsuits has raised questions about whether the YWCA pension plan could be found to be age discriminatory merely on the basis of its design. This threat is particularly acute given the fact that the YWCA Retirement Fund is a multiple employer pension plan—a plan that relies on contributions from each local YWCA. This enormous potential liability would be shared jointly by all local YWCAs. Under current law, even the mere threat of lawsuit could cause local YWCAs to end their participation in this plan.

If enacted, this legislation would merely classify the YWCA retirement plan as a defined contribution plan only for the purpose of testing for age discrimination—it would continue to protect participants from being treated differently on the basis of age while eliminating the potential crippling legal threat.

Legislation was enacted in 2004—Public Law 108–476—to clarify the legal status of the YMCA pension plan, a plan that is similar to the YWCA plan. Congress was right to protect the YMCA pension plan then and now it is time to protect the pension plan serving our YWCAs.

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. 3922

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 ''YWCA Retirement Plan Preservation Act of 2006''.

SEC. 2. CLARIFICATION OF AGE DISCRIMINATION RULES.

(a) IN GENERAL.—A pension plan described in subsection (b) shall be treated as a defined contribution plan for purposes of sections 204(b)(1)(H) and 204(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)(1)(H) and 1054(b)(2)) and section 4(i)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(i)(1)).

(b) PENSION PLAN DESCRIBED.—A pension plan described in this subsection is the plan subject to title IV of the Employee Retirement Income Security Act of 1974 maintained by the Young Women's Christian Association Retirement Fund, a corporation created by an Act of the State of New York which became law on April 12, 1924.

(c) EFFECTIVE DATE.—Subsection (a) shall apply in the case of any civil action brought on or after September 21, 2006, alleging a violation occurring before June 29, 2005, of section 204(b)(1)(H) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)(1)(H)), section 4(i)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(i)(1)), or both, with respect to the plan described in subsection (b).

Mr. HATCH (for himself and Mrs. FEINSTEIN):

S. 3923. A bill to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges; to the Committee on the Judiciary.

Mr. HATCH. Mr. President. I rise today to introduce with Senator FEINSTEIN legislation to establish a pilot program that is intended to enhance the level of expertise in patent cases among United States district court judges. In conversations with a number of constituents and both small and large companies in my home State of Utah, I have found that one of the frequent complaints by those who had been involved in patent litigation was that many district court judges had relatively little expertise in patent law, and—partially as a result—the decisions of trial courts are often overturned on appeal due to technical errors in construing patent claims. Obviously, this is frustrating for litigants, because it prolongs the uncertainty they experience and makes an expensive appeal of the trial court's decision much more likely. This bill seeks to address that problem by providing a way to increase the level of expertise among district court judges in patent cases.

The core provisions of this bill authorize a pilot project in at least five judicial districts that have a significant patent litigation caseload. Under the pilot program, judges in these districts will be allowed to form a smaller pool of judges who are willing to accept a larger portion of the patent litigation docket in the district. The bill also authorizes additional resources to allow participating courts to hire law clerks with expertise in patent law and to provide for educational programs relating to patent law for the participating judges. It is our intention that this program will allow these judges to acquire greater experience in handling patent trials, decrease the amount of time that patent cases take to resolve, and reduce reversals on appeal by enhancing the level of experience and expertise of judges and law clerks handling these cases. The project is authorized for at least five judicial districts, to be designated by the Administrative Office of the United States Courts, and will last for a 10 year period.

The bill also requires Administrative Office of the United States Courts and the Federal Judicial Center to provide a report to Congress on the results of the pilot program, along with additional information that will allow Congress to determine whether this approach has had the beneficial effects that we anticipate.

Those who are following the patent debates in Congress closely will notice that this bill is very similar to a bill introduced in the House by Representatives ISSA and SCHIFF, and I would like to acknowledge their work on this issue, as well as the work of other members of the House Judiciary Committee and the Subcommittee on Courts, the Internet, and Intellectual Property. I would also like to thank my colleague from California, Senator FEINSTEIN, for her interest in this issue and for her willingness to cosponsor this bill.

I should also note that further refinements to this language will likely be necessary as it moves through the legislative process. In particular, we need to include a provision which would preserve a sufficient element of random assignment among judges. I understand some of my Senate colleagues have reservations about including this provision, but we will deal with that issue as the bill progresses.

I hope my colleagues in the Senate will join Senator FEINSTEIN and me by supporting this legislation.

I yield the floor.

By Ms. CANTWELL (for herself, Mrs. MURRAY, Mr. BINGAMAN, and Ms. MIKULSKI):

S. 3924. A bill to amend title XXI of the Social Security Act to allow qualifying States to use all or any portion of their allotments under the State Children's Health Insurance Program for certain Medicaid expenditures; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I rise today to introduce the Children's

Health Protection and Eligibility Act of 2006. I am delighted to have Senator MURRAY, BINGAMAN, and MIKULSKI introduce this bill with me today.

As health insurance costs continue to rise and the number of employers that offer health coverage to their employees decline, our safety net programs are all the more critical, especially for the health of our children. It is more important than ever to sustain existing health care coverage for our children—and, in fact, to expand it. It's the best way to reduce costs and improve access. It's about keeping children healthy.

New Census data released last month showed that the number of uninsured has grown from 41.2 million in 2001 to 46.6 million in 2005. These are largely working families—the number of fulltime workers without any insurance increased to 17.7 percent in 2005 from 16.8 percent in 2002.

In Washington, our Medicaid program is currently providing coverage for more than 500,000 children. Our State Children's Health Insurance Program is providing coverage to another 11,000 children. But 100,000 of our kids in Washington State remain uninsured even though they are eligible for one of the public programs.

One barrier to expanding kids' access to health care in Washington is the funding rules that were put into place when SCHIP was enacted in 1997. In short, our state has been punished for its early innovation for doing the right thing.

When SCHIP was enacted at the Federal level in 1997, Washington was one of only four States already providing health coverage for children at the level Federal lawmakers wanted SCHIP to reach. Under the original Federal rules, Washington was not allowed to use new funds to pay for children who were covered prior to SCHIP's implementation.

As a result, we have been penalized and prevented from fully using our share of the funding. That is why in 2002 I worked to ensure a temporary fix to the funding inequity and I have been fighting to make this fix permanent ever since. And as a result of these temporary fixes, Washington has been able to extend coverage to an additional 60,000 children and reinvest $47.3 million in children's health safety net programs.

Despite this success, the State has still been forced to return over percent of its share of Federal funding. Over the first decade of the SCHIP program, Washington is expected to return $191 million in Federal funds.

Let me say that again: we're returning millions of dollars to the Federal Government and we still have 100,000 uninsured children in our State—the majority of whom are eligible for these public programs.

It's unacceptable and it runs contrary to the central goal of the SCHIP program. We need a permanent solution once and for all so that Washington and the other States that expanded eligibility in their Medicaid programs before the enactment of SCHIP in 1997 are no longer penalized for their early innovation and their commitment to the health of children.

This is why we are introducing the Children's Health Protection and Eligibility Act of 2006.

This legislation will give states the ability to use SCHIP funds more efficiently to prevent the loss of health care coverage for children. States that have made a commitment to insuring children could use their entire SCHIP funds allotment to maintain access to health care coverage for all low-income children in the state. The bill also ensures that all of the qualifying States that have demonstrated a commitment to providing health care coverage to children can access SCHIP funds in the same manner to support children's health care coverage. Finally, this bill allows States that have expanded coverage to the highest eligibility levels allowed under SCHIP, and meet certain requirements, to receive the enhanced SCHIP match rate for any kids that had previously been covered above the mandatory level.

The requirements are best practices that have been tested and proven all across our Nation: a simplified application process, twelve-month continuous eligibility and easy access to enrollment staff are just a few of the examples of actions that we have taken in Washington that are proven to work. They result in more children having coverage and accessing appropriate care. Many of our States are working to make the program easier for children and families to navigate and now Congress needs to make it easier for all States to access their SCHIP allotment in order to expand and improve coverage to our youngest citizens.

Children are the leaders of tomorrow; they are the very future of our great Nation. We owe them nothing less than the sum of our energies, our talents, and our efforts in providing them a foundation on which to build happy, healthy and productive lives. With the rising number of uninsured and the ever-increasing healthcare costs, it is more important than ever to maintain existing health care coverage for children in order to hold down health care costs and to keep children healthy. Removing barriers for innovative states and allowing them to fully access their SCHIP allocation is a major step in achieving this goal. I urge my colleagues to join us in support of this bill and 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. 3924

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY FOR QUALIFYING STATES TO USE ALL OR ANY PORTION OF THEIR SCHIP ALLOTMENTS FOR CERTAIN MEDICAID EXPENDITURES.

(a) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ''not more than 20 percent of any allotment under section 2104 for fiscal year 1998, 1999, 2000, 2001, 2004, or 2005'' and inserting ''all or any portion of any allotment made to the State under section 2104 for a fiscal year''.

(b) ADDITIONAL REQUIREMENTS.—Section 2105(g)(2) of such Act (42 U.S.C. 1397ee(g)(2)) is amended—

(1) by striking ''a State, that, on'' and inserting ''a State that is described in subparagraph (A) and satisfies all of the requirements of subparagraph (B).

''(A) STATE DESCRIBED.—A State described in this subparagraph is a State that, on''; and

(2) by adding at the end the following:

''(B) REQUIREMENTS.—The requirements of this subparagraph are the following:

''(i) NO REDUCTION IN MEDICAID OR SCHIP INCOME ELIGIBILITY.—Since January 1, 2001, the State has not reduced the income, assets, or resource requirements for eligibility for medical assistance under title XIX or for child health assistance under this title.

''(ii) NO WAITING LIST IMPOSED.—The State does not impose any numerical limitation, waiting list, or similar limitation on the eligibility of children for medical assistance under title XIX or child health assistance under this title and does not limit the acceptance of applications for such assistance.

''(iii) PROVIDES ASSISTANCE TO ALL CHILDREN WHO APPLY AND QUALIFY.—The State provides medical assistance under title XIX or child health assistance under this title to all children in the State who apply for and meet the eligibility standards for such assistance.

''(iv) PROTECTION AGAINST INABILITY TO PAY PREMIUMS OR COPAYMENTS.—The State ensures that no child loses coverage under title XIX or this title, or is denied needed care, as a result of the child's parents' inability to pay any premiums or cost-sharing required under such title.

''(v) ADDITIONAL REQUIREMENTS.—The State has implemented at least 3 of the following policies and procedures (relating to coverage of children under title XIX and this title):

''(I) SIMPLIFIED APPLICATION FORM.—With respect to children who are eligible for medical assistance under title XIX, the State uses the same simplified application form (including, if applicable, permitting application other than in person) for purposes of establishing eligibility for assistance under title XIX and this title.

''(II) ELIMINATION OF ASSET TEST.—The State does not apply any asset test for eligibility under title XIX or this title with respect to children.

''(III) ADOPTION OF 12-MONTH CONTINUOUS ENROLLMENT.—The State provides that eligibility shall not be regularly redetermined more often than once every year under this title or for children eligible for medical assistance under title XIX.

''(IV) SAME VERIFICATION AND REDETERMINATION POLICIES; AUTOMATIC REASSESSMENT OF ELIGIBILITY.—With respect to children who are eligible for medical assistance under section 1902(a)(10)(A), the State provides for initial eligibility determinations and redeterminations of eligibility using the same verification policies (including with respect to face-to-face interviews), forms, and frequency as the State uses for such purposes under this title, and, as part of such redeterminations, provides for the automatic reassessment of the eligibility of such children for assistance under title XIX and this title.

''(V) OUTSTATIONING ENROLLMENT STAFF.—The State provides for the receipt and initial processing of applications for benefits under this title and for children under title XIX at facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(l)(2)(B) consistent with section 1902(a)(55).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2006, and shall apply to expenditures described in section 2105(g)(1)(B)(ii) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(B)(ii)) that are made after that date.

By Mr. LUGAR:

S. 3925. A bill to provide certain authorities for the Secretary of State and the Broadcasting Board of Governors, and for other purposes; read the first time.

Mr. LUGAR. Mr. President, I am introducing legislation today at the request of the executive branch and will be seeking unanimous consent to request its passage as soon as possible. The Foreign Affairs Management Authorities Act of 2006 contains provisions requested by the State Department and the Broadcasting Board of Governors that will enable the two agencies to carry out their work more efficiently and effectively.

Title I of this bill creates a new pay for performance system for Foreign Service officers with the rank of 01 and below and creates a uniform worldwide pay scale. The American Foreign Service Association supports these. I am including a letter from Anthony Holmes, the AFSA President.

The Senior Foreign Service already participates in a pay for performance plan as mandated in previously enacted law, Section 412(a)(2) PL108–447, Div. B. The legislation replaces ''within grade increases'' with a requirement that, upon the introduction of the new Foreign Service Schedule in April 2008, any further adjustments in pay are tied to individual performance rather than longevity of service. It directs the Secretary of State to pay to each member of the Service an adjustment taking into account ''individual performance, contribution to the mission of the Department, or both, under a rigorous performance management system that makes meaningful distinctions based on relative performance and that clearly links individual pay and performance under precepts prescribed by the Secretary.'' Each Secretary/head of agency utilizing the Foreign Service personnel system may implement this section in a manner most suitable to the unique circumstances of his or her agency. Poor performers would get no increase in pay. As with the Senior Foreign Service, the pay for performance planned for the Foreign Service would utilize multiple levels of performance distinctions. Performance-based adjustments normally would be made only once in any 12-month period.

Title I also provides a number of employee protections. It specifically guarantees a minimum funding pool for performance-based pay adjustments to ensure that, in the aggregate, employees are not disadvantaged by conversion to the new pay system. It authorizes selection boards to rank order employees for the purpose of recommending pay for performance salary adjustments, and requires agencies that use selection boards for pay for performance to follow the selection board rankings in allocating salary increases, except in special circumstances. The legislation does not impact the negotiation of procedures and appropriate arrangements for adversely affected employees with the employees' representative, the American Foreign Service Association, AFSA.

Title I provides transitional authorities to the Secretary of State for use during the interim period before April 2008 when the new Foreign Service Schedule is established. It contains provisions that govern the conversion of employees to the new schedule and it provides for a one-year transition period from the current 14-step system. It also gives the Secretary authority to establish transitional rules that prevent a reduction in a member's rate of pay by reason of conversion to the new system, among other measures that are to be applied to provide for a smooth transition.

In a long needed reform, Title I also provides uniform compensation for worldwide service by April 2008. It eliminates the disparity in pay between those serving in Washington, DC, and other domestic posts who receive locality pay increases and those serving overseas who do not. The discrepancy has skewed incentives to serve overseas and is inconsistent with mandatory worldwide and rotational assignment requirements. The Department estimates the cost of its three-stage transition to the new pay system to be $32 million in its 2007 budget, $64 million in 2008, and $32 million in 2009. The legislation provides for pay conversion and establishes temporary rules for the period leading up to April 2008 as the transition takes place.

As Secretary Rice works to fill difficult posts around the world, including in Iraq and Afghanistan, and as our diplomats come increasingly under fire in tough places, it is common sense to restructure a pay system that, without reform, provides disincentives to serving overseas. The Foreign Service must know that our country stands behind them, appreciates their service, and is grateful for the contributions they make to the security of our country and the well-being of our citizens.

Title II contains a number of provisions that are contained in S.600, still being held on the Senate calendar. It also contains provisions that were requested by the executive branch subsequent to the Senate Foreign Relations Committee's passage of S. 600. The provisions in Title II of this legislation are as follows:

Section 201. Education allowances modifies current law to: 1. permit payment of certain fees required by overseas schools for successful completion of a course or grade; 2. allow for travel to the United States for children in kindergarten through 12th grade when schools at post are not adequate; 3. allow for education travel to a school outside the United States for children at the secondary and college level; 4. provide for educational travel at the graduate level for children who are still dependents (students older than 22 would be ineligible for such travel); and 5. allow the option of storing a child's personal effects near the school during their trip to post, rather than transporting the effects back and forth.

Section 202. Fraud Prevention and Detection Account broadens the Secretary of State's authority to use a portion of fees collected for H–1B, H–2B and L–1 visas to investigate fraud in other visa categories, including fraud in connection with terrorist activities. Allowing an expanded use of the funds will assist the Department in developing a system that concentrates on H and L visa fraud, but will potentially reduce fraud among all visa classifications and increase the U.S. ability to disrupt terrorist travel.

Section 203. Extension of Privileges and Immunities extends diplomatic privileges and immunities to the African Union Mission to the United States and to the Permanent Observer Mission of the Holy See, and to members of both of these missions.

Section 204. International Litigation Fund allows the Department to retain awards of costs and attorneys' fees when defending against international claims in addition to amounts currently allowed to be retained when it successfully prosecutes a claim.

Section 205. Personal Services Contracting; BBG, the legislation extends for one year a pilot program allowing the BBG to hire 60 U.S. citizens or foreign nationals on contract rather than as full-time government employees. Such authority gives the BBG the flexibility to hire, for the short or medium-term, broadcasters and on-air hosts in difficult languages, some with many dialects. The BBG uses the authority, for example, for surge capacity in Urdu and Arabic.

Inspector General, this section also establishes a limited authority for the State Department's Office of the Inspector General (OIG) to hire personal service contractors (PSCs) to augment its ability to conduct oversight of programs and operations related to Afghanistan and Iraq. No more than 20 PSCs may be hired at any one time and, absent exceptional circumstances, the contract length for each PSC may not exceed two years. The Inspector General anticipates a need for additional staff once the Special Inspector General for Iraq Reconstruction's (SIGIR's) portfolio is either partially or fully transferred to the State Department. The OIG also expects an increase in short-term staffing needs to

carry out oversight responsibilities related to Afghanistan.

Section 206. Facilitating Service in Iraq and Afghanistan is a technical correction to an inadvertent drafting error in section 1602(a) of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (P.L. 109–234). The intent behind section 1602(a) was to provide the Secretary of State with additional authority to waive annuity limitations on reemployed Foreign Service annuitants to support U.S. efforts in Iraq and Afghanistan. As enacted, however, section 1602(a) has the unintended effect of cutting back significantly on the Secretary of State's pre-existing authority to waive Foreign Service annuity limitations in an emergency involving a direct threat to life or property or other unusual circumstances, without regard to geographic location. This technical correction restores the Secretary's pre-existing authority and provides the intended additional authorities with respect to Iraq and Afghanistan.

Section 207. Discontinuance of Duplicative or Obsolete Reports discontinues a number of reports that have been overtaken by events or contain material that is covered in other executive branch submissions to the Congress.

I ask my colleagues to give favorable and speedy consideration to this measure.

I ask unanimous consent that a letter be printed in the RECORD.

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

AMERICAN FOREIGN
SERVICE ASSOCIATION,
Washington, DC, September 20, 2006.

Hon. RICHARD G. LUGAR,
Chairman, Senate Committee on Foreign Relations, Washington, DC.

DEAR CHAIRMAN LUGAR: On behalf of the 14,000 members of the American Foreign Service Association (AFSA), please accept our sincere appreciation for your leadership during the 109th Session on a number of fronts of vital importance to our members and to the United States. In particular, AFSA is grateful for your determination to address the existing pay disparity between Washington-based Foreign Service personnel and those on assignment overseas. As you know, this pay equity issue has been our highest priority for many years.

I want you to know the great importance that AFSA attaches to passing legislation this year that will make the changes necessary to the Foreign Service Act of 1980 to permit a unified worldwide pay schedule. We realize that there are many issues that you and your colleagues are currently grappling with and will try to get passed before the mid-term election recess next week. Our great fear, one that we hope you can help us avoid, is that our modest bill, so important to our members, will be shunted aside with the rationalization that it can always be taken up again later. Mr. Chairman, we are afraid that your colleagues are in danger of missing an exceptional, perhaps unique, opportunity to resolve this pay equity issue and to guarantee a win/win outcome for all concerned by creating a model pay-for-performance personnel system for the Foreign Service that will be a shining example for the rest of the federal government.

The current inequity is profoundly unfair and undermines the moral of our Country's diplomatic corps. The U.S. Foreign Service must have all the tools it needs to implement our diplomatic and national security priorities around the globe, often under extremely challenging circumstances. One vital tool our nation can provide the men and women of the Foreign Service and their families is the validation of their essential efforts abroad that ending this pay disparity would provide. With the increasing difficulty of service overseas and continuing threats against American officials abroad, this measure would be the single most important morale booster that the Congress could provide, Conversely, a lack of immediate action on the proposed legislation would be a profound disappointment to our members.

Mr, Chairman, I know that you fully understand that Foreign Service members should not be penalized for serving abroad with a 17.5 percent pay cut. That simply isn't right. It is our sincere hope that you can persuade Congress to act on this issue now or a crucial opportunity will be lost.

Again, thank you for your leadership. AFSA is most grateful for your support and friendship.

Sincerely,

J. ANTHONY HOLMES,
President.

By Mr. SANTORUM:

S. 3926. A bill to provide for the energy, economic, and national security of America, and for other purposes; to the Committee on Finance.

Mr. SANTORUM. Mr. President, I gave a speech a couple weeks ago about the situation in the Middle East. I want to just do a reprise of that in brief to discuss the context of introducing today what we call the Empower America: Securing America's Energy Future Act.

It comes from the basis that I believe we are facing in this country—a threat. We are, in my opinion, already in the very early stages of a world war. We can act now to make this threat—which I believe is a serious one but not yet fully actualized—less severe if we do certain things. One of them, as you will hear at the conclusion of my remarks, will be focusing on our energy situation here at home.

One of the things I hear as a frustration of so many people I talk to in Pennsylvania is they look at the conflicts we are in in Afghanistan, Iraq, and other places in the world, and they don't see an end or a strategy of how we succeed. I suggest that part of that strategy is in creating energy security and developing a whole host of energy resources in this country so that we are not dependent upon—or as dependent upon foreign sources of energy and that we develop the new technologies that will allow America to continue to grow and keep prices down, and not just because I want to keep them down for consumers, which is great, but so we are not providing enormous riches for people to develop nuclear weapons and turn around and harm the United States and our allies.

I believe the threat we face can be analyzed in a three-pronged approach. As I said on the floor last week or the week before, we face a threat, an enemy most people refer to as terrorists. I do not refer to them as terrorists; I refer to them as who they are: radical Islamic fascists. They have an ideology. These are not people who kill for the purpose of killing. They don't kill because of hatred. They kill because they have a belief, an objective.

I know that for a year or two, the President, right after 9/11, referred to these terrorists as ''cowards.'' I notice that he doesn't do that anymore. I don't know of anybody who does that anymore. There is a reason: They are not cowards at all. These are people with great conviction. Some would even say that, in a demented way, they have great courage. But they are certainly not cowards. Calling them cowards gives the wrong impression to the American people that we are fighting a foe who is afraid of us or afraid of something. The problem is they seem to be afraid of very little when it comes to this world. They are willing to give up their lives. In fact, they want to give up their lives, and their objective, by the way, is to take as many other lives in the process. The object in this war is not territory; the object of this war is submission and death.

So we are not dealing with a group of cowards. When we tell the American public we are dealing with cowards, they don't think this is a serious enemy that can defeat us. America would never lose to a group of cowards. But we can lose to a group of fanatical, zealous Islamists, who have a clear mission and a clear methodology by which to accomplish that mission.

These are people who are very serious about what they want to do, whether it is radical Sunnis or radical Shias. They have an objective and a common enemy—as does the radical left, represented so comically, in my opinion, so ridiculously, by the speech of Hugo Chavez yesterday at the United Nations. What do Mahmud Ahmadi-Nejad, President of Iran, and Hugo Chavez have in common? Nothing except their hatred of everything this country holds dear—freedom, democracy, and individual human rights. That is what they hate. I would suggest they have as much in common as Mussolini and Hitler and Tojo. They had very little in common ideologically. The Japanese believed in the superiority of the Japanese race and wanted to conquer and rule the world. Hitler didn't believe in that, but they formed an alliance because there was a common enemy.

That is the case here. We are seeing it. It is, hopefully, a frightening sight put on display over the last couple of days at the United Nations, as this character of a President, this ridiculous diatribe Hugo Chavez presented to the U.N. received applause from many around the world—most leaders around the world. This is a serious threat. We can look at it and put it in political terms and say we went to war for the wrong reason and this or that wasn't true. But that is looking in the rearview mirror when we have a huge

threat. So they have an ideology and a common enemy.

Secondly, they have a very effective methodology by which to conduct this war. It is one that doesn't require the kind of coordination and resources a traditional military campaign would require. They don't need to conquer land, to hold ground; they simply need to kill people every day. And they do—every day. And we cover it in America every day. American people watch it every day. And every day, the resolve of the American people is eroded. The resolve of the American people is eroded because—I will use the words of Osama bin Laden—because we Americans love life and the radical Islamists love death. That is how he said he would defeat us, because of America's and the West's love for life and respect for life, their attachment to this world, to the modern world, and the radical Islamist's attachment not to this world at all but to death, which, in their minds, means life—a better life with Allah. That is their objective, their methodology. Their methodology is to prey upon what they believe is the weakness of America, what they believe is the weakness of the West, which is the fact that we respect life, love life, we have human rights, and we believe in freedom. We believe it is our objective in this world to make it a better world. They don't care about that at all. So terror is a uniquely effective tactic that fits well into their culture of death and is particularly effective against our culture of life.

In addition, they are trying to develop a new weapon; that is, a nuclear weapon. Iran has made it very clear and Chavez has announced his intention to develop a huge arsenal of weapons of mass destruction to use, in the words of Ahmadi-Nejad, ''to wipe Israel off the face of the earth'' and use that weaponry to get the rest of the Western World to submit to their radical, fanatical brand of Islam.

This is their ultimate threat. This is the ultimate tactic of death and terror—to have a country that is committed publicly to using nuclear weapons not to defend itself, not to gain an earthly dominion over the world, but to cause mass chaos and destruction, in the case of Iran, for a religious purpose, because what they seek to accomplish is the return of the Hidden or 12th Imam. That is the 12th descendant of the Prophet Muhammad who, in the late 800s, went into hiding, according to the Shia religion, and is destined to return as the messiah of the Islamic faith at the end of times—the end of times meaning Armageddon. The interesting twist that the radical Shia project onto the world stage today is they believe it is their obligation to bring about the return of the Hidden or 12th Imam by causing a modern-day Armageddon. That is what they believe. You may not have heard this before, but let me assure you, that is what they believe. That is what they say. That is what they talk about all the time, that this is their objective. It is a messianic vision; they are being compelled by their faith.

Some pass it off as a bunch of dictators who are just using religion to prop themselves up, to maintain control, or to try to dominate bigger areas of the world. Well, that would be bad enough. That would be dangerous enough. But I think we underestimate them when we say that. I think we underestimate President Ahmadi-Nejad and the ruling mullahs of Iran when we say that. I believe they are true believers, and I don't think we can afford the luxury of not believing that they believe this. I don't think we can dismiss them as another group of two-bit tyrants. These are two-bit tyrants who have billions upon billions of dollars and have allies like North Korea, who have access to nuclear technology. They have scientists from Russia who left Russia because there is nothing for them to do, and they are in Tehran today developing rocketry and the nuclear capability to project that power.

Some would say I am beating the drums of war. No. I am accurately describing the situation at hand. Some disagree with me, and they are welcome to. Do you want to take that chance? Do you want to take the chance of having a nuclear weapon? They are clear about their intention of developing it. Do you want to take that chance? I don't.

How did this happen? Radical Islam has been present in the Middle East for a long time. We have not heard much from them except when? In the last 30, 40 years. Why? The price of oil. It is oil, to begin with, and now the high price of oil. It gives them the resources to not only feed the people to keep them in power but to produce weapons to project power. The only reason, again, they have those resources is because of this one three-letter word—oil—which brings me back to the beginning of this discussion.

If we are going to defeat radical fascist Islam, then we have to have a strategy to take resources away from them so they cannot project the power they can today. The only way to do that is by developing a more secure energy future for America and reducing our dependency on that oil, which would reduce the price of energy around the world. We need to encourage not only alternative energy production in this country; we have to do so around the world. We have to do so around the world by using alternative technology such as, for example, as I talk about in the bill, coal.

One of the greatest new energy consumers in the world is China. They don't have a lot of oil, but they have a lot of coal. So it is an opportunity for us, with coal to gas and coal to liquid fuels technology, developing and commercializing that technology. And it is not just going to be coal to liquid fuels, but if you talk to folks in the business who are developing these plants right now—and one is being developed in Pennsylvania, which I have been involved with—they believe they can use all sorts of organic matter, such as waste products, to blend in with the coal to be able to produce liquid fuel.

We need to have that technology in America, and they need to have that technology, and they are developing it, by the way, in China. We need to create from the vast amount of energy opportunities that we have in America and around the world new technologies so oil becomes less of a valuable commodity. This is one concrete way we can fight the war on radical Islamic fascism.

I have put together a bill that talks about making—it does, if it would be passed—a huge investment, a huge investment in alternative technologies, a huge investment in coal, a huge investment in renewables to create a more secure energy future for America. We can no longer talk about how we are going to do this or that we will do it at some future date. We must act now, quickly. We need to provide support for the commercialization of this technology. We are not going to see energy produced at $20 a barrel, the equivalent of oil. We are not going to see it done at $30 or $40 a barrel. It may be more expensive. We have to make sure we provide proper support in loan guarantees, incentives, and tax credits to make this a profitable venture and a secure venture for people to invest in.

This is not something that normally I have come to the Chamber and said that this is the Government's job. This is national security. This is not about subsidizing big business. This is about producing energy here for the security of our country. We either make the investment here or we pay a horrible price, human as well as financial, in the future.

We need to think big, and we need to think now. That is why—when I spoke about the comments the Senator from Louisiana made before I came to the floor on opening up OCS—it is unconscionable for us to look at the national security situation we look at today, to look at the subsidies we are providing to our enemies and say: Oh, oh, we can't explore for oil in Alaska or OCS. Oh, we are worried about the environment.

I am worried about the environment, too. In my State of Pennsylvania, in the western part of our State, we drill 3,000 gas wells a year—3,000—on farms, in neighborhoods, outside neighborhoods, in people's backyards. At Oakmont Country Club, which is where the U.S. Open is going to be played, they are going to drill a gas well right next to Oakmont Country Club. That is pretty much an environmental area. Nobody wants to pollute Oakmont Country Club. We are going to drill a gas well there.

Yet there are people on this floor who won't drill those wells in Alaska where nobody goes, where nobody is. As a result, our country is at risk. We feed an enemy huge resources to combat us

in their attempt to destroy us. It is unconscionable for us, a country that produces oil and gas cleaner and more efficiently than any other country in the world, to allow our enemy to hold us, not just hostage, but to gain resources to destroy us because we placate an interest group who funds, campaigns, and influences voters.

I know many in this Chamber and many in this country do not believe we are at war or do not believe this war is serious. Time will tell. I think, unfortunately, time will tell us in a relatively short period of time how serious this is, and we will look back on this time as we stood year after year for the past 10 years twiddling our thumbs, not doing what we can do to provide a more secure energy future for this country, and we will look back in horror of the blinders, of the scales we had on our eyes that we could not see the threat before us.

We must do something. The bill I am introducing today is a comprehensive package that does a lot to make America a safer country, first and foremost, from a national security perspective and, secondly, from an economic perspective.

I know we only have a week left. The Senator from Louisiana talked about trying to get a bill done. Let's get something done. I plead for us to get something done to create some new sources of energy for this country, to put some downward pressure on world market prices. It is essential for us to do so.

We need to make this commitment for the future of our country.

By Mrs. BOXER.

S. 3927. A bill to require the placement of blast-resistant cargo containers on all commercial passenger aircraft; to the Committee on Commerce, Science, and Transportation.

Mrs. BOXER. Mr. President, I was pleased that the Senate leadership finally agreed to consider a port security bill last week. It is high time we did more about security at our ports.

Our ports are a soft target. We knew this before 9/11 and many experts have warned us since that terrible day that our ports are vulnerable to attack.

Since the port security bill was signed into law at the end of 2002, we have not moved forward on port security, and it remains dangerously underfunded. Since the 9/11 attacks, we have spent only $816 million on port security grants, despite Coast Guard estimates that $5.4 billion is needed over 10 years.

Addressing port security is critical. However, security for other transportation modes is important, but the Republican leadership wanted us to do port security and nothing else.

Through the efforts of many Senators, provisions for rail and transit security were included. But, the final bill the Senate approved does not contain any major provisions for aviation security. Yes, aviation security has improved greatly in the last five years. But, as we recently found out with the aviation terrorist plot uncovered by the British authorities, there are still holes in the system.

Transportation Security Administration, TSA, has implemented new security procedures since we learned of the London terror plot to detonate liquid explosives on flights from Great Britain to the United States. While I support these new procedures, TSA is asking passengers to give up their lip gloss, yet we are not examining cargo loaded on board our passenger planes.

I am pleased that the Department of Homeland Security will launch a pilot program at San Francisco Airport, SFO, this October to check all commercial cargo for explosives on passenger flights.

We should be doing this at every airport to ensure the security of the flying public and the solvency of the airline industry. But until that time, at the very least, we need to use at least one blast resistant cargo container on passenger planes that carry cargo. This was one of the recommendations of the 9/11 Commission.

For several years, I have been working to get these containers on planes.

Currently, TSA is undertaking a pilot project using these containers, some of which are made with Kevlar, for cargo. But we must move past pilot programs.

We should use blast-resistant containers for cargo on all passenger planes. That is why I an introducing a bill to do just that.

The 9/11 Commission recommended, TSA should require that every passenger aircraft carrying cargo deploy at least one hardened container to carry any suspect cargo. Therefore, all passenger planes should have at least one blast-resistant container for cargo.

To place one blast-resistant container on each plane, it would cost about $75 million—this is equal to the cost of a little more than 5 hours in Iraq. Imagine the impact on the security of the country and the financial outlook for the airline industry if a plane were to explode during a flight.

We owe this to the American people. We cannot allow terrorists to exploit holes in our aviation security system.

By Mrs. BOXER:

S. 3928. A bill to provide for the Office of Domestic Preparedness of the Department of Homeland Security to provide grants to local governments for public awareness education relating to preparedness for natural disasters, terrorist attacks, and influenza pandemic; to the Committee on Homeland Security and Governmental Affairs.

Mrs. BOXER. Mr. President, in the last 5 years, Americans have faced both devastating terrorist attacks and natural disasters. We have also been warned that an avian flu pandemic is a strong possibility.

In California, we have had fires, floods, mudslides, and earthquakes—thankfully not the big one.

We have learned that disasters are inevitable. Being prepared is crucial—especially when the American people cannot rely on the Federal Government, which was demonstrated by the poor Federal response in Hurricane Katrina. Department of Homeland Security Secretary Michael Chertoff has even said, People should be prepared to sustain themselves for up to 72 hours after a disaster.

Therefore, being prepared and knowing how to respond in the days following a natural disaster is extremely important. However, people do not know how to prepare, and, unfortunately, local governments may lack the resources to educate their residents.

According to the Los Angeles Times, Los Angeles County officials could not afford to distribute pamphlets on earthquake preparedness for individuals with special needs.

That is why I am pleased to introduce legislation that will provide grants, through the Department of Homeland Security's Office of Domestic Preparedness, to local governments to educate the public about how to deal with natural disasters, terrorist attacks, and an influenza pandemic.

It is important that we work to make sure that local communities are able to prepare their citizens to deal with future disasters.

I hope my colleagues will support this legislation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 578—RECOGNIZING THAT THE OCCURRENCE OF PROSTATE CANCER IN AFRICAN AMERICAN MEN HAS REACHED EPIDEMIC PROPORTIONS AND URGING FEDERAL AGENCIES TO ADDRESS THAT HEALTH CRISIS BY DESIGNATING FUNDS FOR EDUCATION, AWARENESS OUTREACH, AND RESEARCH SPECIFICALLY FOCUSED ON HOW THAT DISEASE AFFECTS AFRICAN AMERICAN MEN

Mr. KERRY submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 578

Whereas the incidence of prostate cancer in African American men is 60 percent higher than any other racial or ethnic group in the United States;

Whereas African American men have the highest mortality rate of any ethnic and racial group in the United States, dying at a rate that is 140 percent higher than other ethnic and racial groups;

Whereas that rate of mortality represents the largest disparity of mortality rates in any of the major cancers;

Whereas prostate cancer can be cured with early detection and the proper treatment, regardless of the ethnic or racial group of the cancer patient;

Whereas African Americans are more likely to be diagnosed earlier in age and at a

later stage of cancer progression than for all other ethnic and racial groups, thereby leading to lower cure rates and lower chances of survival; and

Whereas, according to a recent paper published in the Proceedings of the National Academy of Sciences, researchers from the Dana Farber Cancer Institute and Harvard Medical School have discovered a variant of a small segment of the human genome that accounts for the higher risk of prostate cancer in African American men: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes that prostate cancer has created a health crisis for African American men; and

(2) declares the critical importance of the designation of increased funding for—

(A) research to address and attempt to end the health crisis created by prostate cancer; and

(B) efforts relating to education, awareness, and early detection at the grassroots levels to end that health crisis.

Mr. KERRY. Mr. President, today, I am joining Congressman GREG MEEKS to submit a Senate resolution aimed at raising awareness of the prostate cancer crisis among African-American men. This Resolution urges Congress to provide the funds necessary to prevent and fight the disease, and to encourage African-American men to get screened.

Prostate cancer is the second leading cause of cancer related death for African-American men. They have the highest incidence and mortality rate due to prostate cancer of any ethnic or racial group. African-American men are dying at a rate of 140 percent—almost 2½ times—higher than other groups. That is the largest disparity for any major cancer.

No person of any race should have to suffer unnecessarily from a disease we have the medical science and moral obligation to prevent, detect, and treat. It should no longer rob sons, daughters, and wives of their fathers, husbands, and loved ones. Just as the doctrine of 'separate but equal,' was wrong in education, it is wrong in health care. We have to reform the system so that the quality of health care for every American never depends on the color of any American's skin. We need to fund more research and greater outreach efforts. For this reason, I urge every member of Congress to support this resolution.

SENATE RESOLUTION 579—DESIGNATING DECEMBER 13, 2006, AS A DAY OF REMEMBRANCE TO HONOR THE 25TH ANNIVERSARY OF THE IMPOSITION OF MARTIAL LAW BY THE COMMUNIST GOVERNMENT IN POLAND

Ms. MIKULSKI (for herself and Mr. SANTORUM) submitted the following resolution; which was considered and agreed to:

S. RES. 579

Whereas, on May 9, 1945, Europe declared victory over the oppression of the Nazi regime;

Whereas Poland and other countries in Central, Eastern, and Southern Europe soon fell under the oppressive control of the Soviet Union;

Whereas for decades the people of Poland struggled heroicly for freedom and democracy against that oppression, paying at times the ultimate sacrifice;

Whereas, in 1980, the Solidarity Trade Union was formed in Poland;

Whereas membership in the Solidarity Trade Union grew rapidly in size to 10,000,000 members, and the Union obtained unprecedented moral power that soon threatened the Communist government in Poland;

Whereas, on December 13, 1981, the Communist government in Poland crushed the Solidarity Trade Union, imprisoned the leaders of the Union, and imposed martial law on Poland;

Whereas, through his profound influence, Pope John Paul II gave the people of Poland the hope and strength to bear the torch of freedom that eventually lit up all of Europe;

Whereas the support of the Polish-American community while martial law was imposed on Poland was essential in encouraging the people of Poland to continue to struggle for liberty;

Whereas the people of the United States were greatly supportive of the efforts of the people of Poland to rid themselves of an oppressive government;

Whereas the people of the United States expressed their support on Christmas Eve 1981 by lighting candles in their homes to show solidarity with the people of Poland who were suffering under martial law;

Whereas, in 1989, the people of Poland finally won the right to hold free parliamentary elections, which led to the election of Poland's first Prime Minister during the post-war era who was not a member of the Communist party, Mr. Tadeusz Mazowiecki; and

Whereas, in 2006, Poland is an important member of the European Union, one of the closest allies of the United States, a contributing partner in the North Atlantic Treaty Organisation, and a reliable partner in the war on terrorism that maintains an active and crucial presence in Iraq and Afghanistan: Now, therefore, be it

Resolved, That the Senate—

(1) designates December 13, 2006, the 25th anniversary of the imposition of martial law by the Communist government in Poland, as a Day of Remembrance honoring the sacrifices paid by the people of Poland during the struggle against Communist rule;

(2) honors the people of Poland who risked their lives to restore liberty in Poland and to return Poland to the democratic community of nations; and

(3) calls on the people of the United States to remember that the struggle of the people of Poland greatly contributed to the fall of Communism and the ultimate end of the Cold War.

SENATE RESOLUTION 580—RECOGNIZING THE IMPORTANCE OF POLLINATORS TO ECOSYSTEM HEALTH AND AGRICULTURE IN THE UNITED STATES AND THE VALUE OF PARTNERSHIP EFFORTS TO INCREASE AWARENESS ABOUT POLLINATORS AND SUPPORT FOR PROTECTING AND SUSTAINING POLLINATORS BY DESIGNATING JUNE 24 THROUGH JUNE 30, 2007, AS ''NATIONAL POLLINATOR WEEK''

Mr. CHAMBLISS submitted the following resolution; which was considered and agreed to:

S. RES. 580

Whereas bees, butterflies, and other pollinator species have a critically important role in agriculture in the United States and help to produce a healthy and affordable food supply and sustain ecosystem health;

Whereas pollinators help to produce an estimated 1 out of every 3 bites of food consumed in the United States and to reproduce at least 80 percent of flowering plants;

Whereas commodities produced in partnership with animal pollinators generate significant income for agricultural producers, with domestic honeybees alone pollinating an estimated $14,600,000,000 worth of crops in the United States each year produced on more than 2,000,000 acres;

Whereas it is in the strong economic interest of agricultural producers and consumers in the United States to help ensure a healthy, sustainable pollinator population;

Whereas possible declines in the health and population of pollinators pose what could be a significant threat to global food webs, the integrity of biodiversity, and human health;

Whereas the North American Pollinator Protection Campaign, managed by the Coevolution Institute, is a tri-national, cooperative conservation, public-private collaboration of individuals from nearly 140 diverse stakeholder groups, including concerned landowners and managers, conservation and environmental groups, scientists, private businesses, and government agencies; and

Whereas the Pollinator Partnership™ web site (http://www.pollinator.org) has been created as the source for pollinator information: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NORTH AMERICAN POLLINATOR APPRECIATION WEEK.

The Senate—

(1) recognizes the partnership role that pollinators play in agriculture and healthy ecosystems;

(2) applauds the cooperative conservation collaborative efforts of participants in the North American Pollinator Protection Campaign to increase awareness about the important role of pollinators and to build support for protecting and sustaining pollinators;

(3) designates June 24 through 30, 2007, as ''National Pollinator Week''; and

(4) encourages the people of the United States to observe the week with appropriate ceremonies and activities.

SENATE RESOLUTION 581—CONDEMNING THE ANTI-DEMOCRATIC ACTIONS OF PRESIDENT HUGO CHAVEZ AND ADMONISHING THE STATEMENTS MADE BY HIM TO THE UNITED NATIONS GENERAL ASSEMBLY ON SEPTEMBER 20, 2006

Mr. BUNNING (for himself, Mr. INHOFE, and Mr. VITTER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 581

Whereas, to consolidate his powers, President Chavez rewrote the constitution of Venezuela after he was elected in 1988;

Whereas, in August 2004, President Chavez survived a recall vote through intimidation and other undemocratic actions;

Whereas President Chavez has decreed that all private property deemed ''not in productive use'' will be confiscated by the government of Venezuela and redistributed to third parties;

Whereas President Chavez has enacted a media responsibility law placing restrictions

on broadcast media coverage, imposing severe penalties for violations, and using other legal methods to intimidate media outlets that criticize his government;

Whereas changes imposed by President Chavez to the penal code of Venezuela have threatened the freedom of expression and freedom of association once enjoyed by the citizens of Venezuela, and have increased jail terms for those convicted of criticizing the government of that country;

Whereas President Chavez and his supporters have stated their intention to use their full control of the national assembly to change the constitution of Venezuela to allow President Chavez to remain in power until 2030, a period of time that exceeds the current constitutional limits of Venezuela;

Whereas, in an effort to destabilize the already fragile democratic governments of other countries in the region, President Chavez is supporting radical forces in Colombia, Bolivia, and Ecuador, as well as leftist parties in those countries;

Whereas President Chavez has repeatedly stated his desire to unite Latin America to serve as a buffer against the United States;

Whereas President Chavez has aligned himself with countries that are classified by the Department of State as sponsors of terrorism;

Whereas President Chavez has developed a close relationship with the Dictator of Cuba, Fidel Castro;

Whereas President Chavez has also associated himself with other dictators, including Kim Jong Il of North Korea and the totalitarian regime of Iran;

Whereas President Chavez was allowed to promote hatred in a speech in which he delivered at the United Nations General Assembly on September 20, 2006, and referred to the President of the United States as ''the devil'';

Whereas President Chavez referred to the President of the United States as ''the spokesman of imperialism'' for the efforts of the United States to aid the citizens of Afghanistan and Iraq in the goal of those citizens to create a permanent and viable representative government; and

Whereas President Chavez made unsubstantial claims that the United States has set in motion a coup in Venezuela and continues to support coup attempts in Venezuela and elsewhere: Now, therefore, be it

Resolved, that the Senate condemns President Chavez for his anti-democratic actions and his statements made at the United Nations General Assembly on September 20, 2006.

SENATE CONCURRENT RESOLUTION 117—OFFICIALLY DESIGNATING THE NATIONAL MUSEUM OF THE PACIFIC WAR IN FREDERICKSBURG, TEXAS, AS THE NATIONAL MUSEUM OF THE PACIFIC WAR

Mr. CORNYN (for himself and Mrs. HUTCHISON) submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 117

Whereas the National Museum of the Pacific War in Fredericksburg, Texas, was founded in 1966 by local citizens in honor of Admiral Chester Nimitz, a Fredericksburg, Texas, native and in honor of those who served in the World War II Pacific War, defending liberty and Nation;

Whereas the National Museum of the Pacific War in Fredericksburg, Texas, is frequently referred to as the Admiral Nimitz Museum;

Whereas the National Museum of the Pacific War in Fredericksburg, Texas, is the only institution in the continental United States dedicated exclusively to telling the story and interpreting the experiences of the United States and its allies that took part in the Pacific Theater battles of World War II—on the battlefield, ocean, and home front;

Whereas the National Museum of the Pacific War in Fredericksburg, Texas, has grown to nearly 34,000 square feet of indoor exhibit space;

Whereas the National Museum of the Pacific War in Fredericksburg, Texas, boasts an impressive display of Allied and Japanese aircraft, tanks, guns, and other large artifacts made famous during the Pacific War campaigns;

Whereas the National Museum of the Pacific War in Fredericksburg, Texas, highlights—

(1) the personal effects of those who made history in the Pacific;

(2) aircraft and battleship remnants;

(3) art; and

(4) other rare treasures;

Whereas there remains a need to preserve in a museum setting both—

(1) evidence of the honor, courage, patriotism, and sacrifice of those Americans who served and sacrificed in the defense of liberty during World War II; and

(2) evidence of other relevant subjects; and

Whereas the National Museum of the Pacific War in Fredericksburg, Texas, houses an archival collection of materials—maintained by the Center for Pacific War Studies—that contains more than 10,000 Pacific War photos, an extensive collection of private papers, official documents, and manuscripts, and a research library of more than 3,000 volumes, all related to the Pacific War: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) designates the National Museum of the Pacific War in Fredericksburg, Texas, including the museum's future and expanded exhibits, collections, archives, artifacts, and education programs, as ''The National Museum of the Pacific War'';

(2) supports efforts to preserve historic moments in our Nation's history;

(3) recognizes that the continued collection, preservation, and display of the historical objects and other historical materials held by The National Museum of the Pacific War enhance our knowledge and understanding of the experience of past and present members of the United States Armed Forces among freedom-loving people around the world;

(4) asks all Americans to join in celebrating The National Museum of the Pacific War and its mission of preserving and safeguarding the legacy of the heroes of the Pacific War; and

(5) encourages present and future generations to understand the sacrifices all Americans made during the difficult times of World War II, to understand how World War II shaped the Nation, other countries, and subsequent world events, and how the sacrifices made then helped preserve liberty, democracy, and other founding principles for generations to come.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5026. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table.

SA 5027. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5028. Mr. SALAZAR (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. OBAMA, Mr. REID, Mr. LEAHY, Mr. DURBIN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5029. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5030. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5031. Mr. FRIST proposed an amendment to the bill H.R. 6061, supra.

SA 5032. Mr. FRIST proposed an amendment to amendment SA 5031 proposed by Mr. FRIST to the bill H.R. 6061, supra.

SA 5033. Mr. FRIST (for Mr. LUGAR (for himself, Mr. BROWNBACK, Mr. MARTINEZ, Mr. HAGEL, Mr. CORNYN, Mrs. HUTCHISON, Mr. DEWINE, Mr. COLEMAN, Mr. CHAFEE, Mr. ALEXANDER, Mr. SUNUNU, and Mr. SPECTER)) proposed an amendment to the bill H.R. 3127, to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

SA 5034. Mr. CRAIG proposed an amendment to the bill S. 2562, to increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

TEXT OF AMENDMENTS

SA 5026. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _. ENHANCED BORDER SURVEILLANCE.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security, in cooperation with the Administrator of the Federal Aviation Administration, shall establish a 1-year pilot program at the Northern Border Air Wing bases of the Office of Customs and Border Protection Air and Marine to test the use of unmanned aerial vehicles for border surveillance along the international marine and land border between Canada and the United States.

SA 5027. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. STUDY ON METHAMPHETAMINE INFILTRATION AT THE BORDERS.

Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Drug Enforcement Agency, shall report to Congress—

(1) on the amount and type of methamphetamine seizures occurring at both the northern and southern borders; and

(2) after considering the flow of methamphetamine and its precursors across our borders, recommendations identifying funding, equipment, and infrastructure needs to better combat methamphetamine trafficking across United States borders with particular attention to the manpower and equipment needs on Indian reservations located at or near United States borders.

SA 5028. Mr. SALAZAR (for himself, Mr. KENNEDY, Mr. LIEBERMAN, Mr. OBAMA, Mr. REID, Mr. LEAHY, Mr. DURBIN, and Mr. CARPER) submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, add the following:

DIVISION A—COMPREHENSIVE IMMIGRATION REFORM

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Comprehensive Immigration Reform Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

SEC. 2. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 3. DEFINITIONS.

In this division:

(1) DEPARTMENT.—Except as otherwise provided, the term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

SEC. 4. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be invalid for any reason, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any

other person or circumstance shall not be affected by such holding.

TITLE I—BORDER ENFORCEMENT

Subtitle A—Assets for Controlling United States Borders

SEC. 101. ENFORCEMENT PERSONNEL.

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(3) DEPUTY UNITED STATES MARSHALS.—In each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, increase by not less than 50 the number of positions for full-time active duty Deputy United States Marshals that investigate criminal matters related to immigration.

(4) RECRUITMENT OF FORMER MILITARY PERSONNEL.—

(A) IN GENERAL.—The Commissioner of United States Customs and Border Protection, in conjunction with the Secretary of Defense or a designee of the Secretary of Defense, shall establish a program to actively recruit members of the Army, Navy, Air Force, Marine Corps, and Coast Guard who have elected to separate from active duty.

(B) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit a report on the implementation of the recruitment program established pursuant to subparagraph (A) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out paragraph (1) of subsection (a).

(2) DEPUTY UNITED STATES MARSHALS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a)(3).

(3) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

''SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

''(1) 2,000 in fiscal year 2006;

''(2) 2,400 in fiscal year 2007;

''(3) 2,400 in fiscal year 2008;

''(4) 2,400 in fiscal year 2009;

''(5) 2,400 in fiscal year 2010; and

''(6) 2,400 in fiscal year 2011;

''(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.''.

SEC. 102. TECHNOLOGICAL ASSETS.

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning on the date on which the report is submitted under subsection (c), the Secretary shall conduct a pilot program to test unmanned aerial vehicles for border surveillance along the international border between Canada and the United States.

(f) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

SEC. 103. INFRASTRUCTURE.

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

SEC. 104. BORDER PATROL CHECKPOINTS.

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

SEC. 105. PORTS OF ENTRY.

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

SEC. 106. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector; and

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER HIGH TRAFFICKED AREAS.—The Secretary shall construct not less than 370 miles of triple-layered fencing which may include portions already constructed in San Diego Tucson and Yuma Sectors, and 500 miles of vehicle barriers in other areas along the southwest border that the Secretary determines are areas that are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a), (b), and (c) and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a), (b), and (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Border Security Plans, Strategies, and Reports

SEC. 111. SURVEILLANCE PLAN.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

SEC. 112. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 111.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 111 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

SEC. 113. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security, technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best

practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advance automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

SEC. 114. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102; 119 Stat. 2218).

SEC. 115. COMBATING HUMAN SMUGGLING.

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures, with the Secretary of State, to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combating human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

SEC. 116. DEATHS AT UNITED STATES-MEXICO BORDER.

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

(1) the causes of the deaths; and

(2) the total number of deaths.

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

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

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

SEC. 117. COOPERATION WITH THE GOVERNMENT OF MEXICO.

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

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

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

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

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

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

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

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

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

(d) CONSULTATION REQUIREMENT.—Federal, State, and local representatives in the United States shall consult with their counterparts in Mexico concerning the construction of additional fencing and related border security structures along the international border between the United States and Mexico, as authorized by this title, before the commencement of any such construction in order to—

(1) solicit the views of affected communities;

(2) lessen tensions; and

(3) foster greater understanding and stronger cooperation on this and other important security issues of mutual concern.

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

Subtitle C—Other Border Security Initiatives

SEC. 121. BIOMETRIC DATA ENHANCEMENTS.

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

SEC. 122. SECURE COMMUNICATION.

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all Border Patrol agents conducting operations between ports of entry;

(2) between Border Patrol agents and their respective Border Patrol stations;

(3) between Border Patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

SEC. 123. BORDER PATROL TRAINING CAPACITY REVIEW.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to Border Patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new Border Patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new Border Patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of Border Patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a Border Patrol agent.

SEC. 124. US–VISIT SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US–VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US–VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

SEC. 125. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 126. IMPROVED DOCUMENT INTEGRITY.

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

SEC. 127. CANCELLATION OF VISAS.

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

SEC. 128. BIOMETRIC ENTRY-EXIT SYSTEM.

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282)

is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

SEC. 129. BORDER STUDY.

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States. The study shall include—

(1) an assessment of the necessity of constructing such a system, including the identification of areas of high priority for the construction of such a system determined after consideration of factors including the amount of narcotics trafficking and the number of illegal immigrants apprehended in such areas;

(2) an assessment of the feasibility of constructing such a system;

(3) an assessment of the international, national, and regional environmental impact of such a system, including the impact on zoning, global climate change, ozone depletion, biodiversity loss, and transboundary pollution;

(4) an assessment of the necessity for ports of entry along such a system;

(5) an assessment of the impact such a system would have on international trade, commerce, and tourism;

(6) an assessment of the effect of such a system on private property rights including issues of eminent domain and riparian rights;

(7) an estimate of the costs associated with building a barrier system, including costs associated with excavation, construction, and maintenance;

(8) an assessment of the effect of such a system on Indian reservations and units of the National Park System;

(9) an assessment of the necessity of constructing such a system after the implementation of provisions of this Act relating to guest workers, visa reform, and interior and worksite enforcement, and the likely effect of such provisions on undocumented immigration and the flow of illegal immigrants across the international border of the United States;

(10) an assessment of the impact of such a system on diplomatic relations between the United States and Mexico, Central America, and South America, including the likely impact of such a system on existing and potential areas of bilateral and multilateral cooperative enforcement efforts;

(11) an assessment of the impact of such a system on the quality of life within border communities in the United States and Mexico, including its impact on noise and light pollution, housing, transportation, security, and environmental health;

(12) an assessment of the likelihood that such a system would lead to increased violations of the human rights, health, safety, or civil rights of individuals in the region near the southern international border of the United States, regardless of the immigration status of such individuals;

(13) an assessment of the effect such a system would have on violence near the southern international border of the United States; and

(14) an assessment of the effect of such a system on the vulnerability of the United States to infiltration by terrorists or other agents intending to inflict direct harm on the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

SEC. 130. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later that 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

SEC. 131. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

SEC. 132. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"§ 555. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint.

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 3 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b) of this title, such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by inserting at the end:

''555. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements''.

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or commend of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

SEC. 133. TEMPORARY NATIONAL GUARD SUPPORT FOR SECURING THE SOUTHERN LAND BORDER OF THE UNITED STATES.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—(1) With the approval of the Secretary of Defense, the Governor of a State may order any units or personnel of the National Guard of such State to perform annual training duty under section 502(a) of title 32, United States Code, to carry out in any State along the southern land border of the United States the activities authorized in subsection (b), for the purpose of securing such border. Such duty shall not exceed 21 days in any year.

(2) With the approval of the Secretary of Defense, the Governor of a State may order any units or personnel of the National Guard of such State to perform duty under section 502(f) of title 32, United States Code, to provide command, control, and continuity of support for units or personnel performing annual training duty under paragraph (1).

(b) AUTHORIZED ACTIVITIES.—The activities authorized by this subsection are any of the following:

(1) Ground reconnaissance activities;

(2) Airborne reconnaissance activities;

(3) Logistical support;

(4) Provision of translation services and training;

(5) Administrative support services;

(6) Technical training services;

(7) Emergency medical assistance and services;

(8) Communications services;

(9) Rescue of aliens in peril;

(10) Construction of roadways, patrol roads, fences, barriers, and other facilities to secure the southern land border of the United States; and

(11) Ground and air transportation.

(c) COOPERATIVE AGREEMENTS.—Units and personnel of the National Guard of a State may perform activities in another State under subsection (a) only pursuant to the terms of an emergency management assistance compact or other cooperative arrangement entered into between Governors of such States for purposes of this section, and only with the approval of the Secretary of Defense.

(d) COORDINATION OF ASSISTANCE.—The Secretary of Homeland Security shall, in consultation with the Secretary of Defense and the Governors of the States concerned, coordinate the performance of activities under this section by units and personnel of the National Guard.

(e) ANNUAL TRAINING.—Annual training duty performed by members of the National Guard under subsection (a) shall be appropriate for the units and individual members concerned, taking into account the types of units and military occupational specialties of individual members performing such duty.

(f) DEFINITIONS.—In this section:

(1) The term ''Governor of a State'' means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(3) The term ''State along the southern border of the United States'' means each of the following:

(A) The State of Arizona.

(B) The State of California.

(C) The State of New Mexico.

(D) The State of Texas.

(g) DURATION OF AUTHORITY.—The authority of this section shall expire on January 1, 2009.

(h) PROHIBITION ON DIRECT PARTICIPATION IN LAW ENFORCEMENT.—Activities carried out under the authority of this section shall not include the direct participation of a member of the National Guard in a search, seizure, arrest, or similar activity.

SEC. 134. REPORT ON INCENTIVES TO ENCOURAGE CERTAIN MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES TO SERVE IN THE BUREAU OF CUSTOMS AND BORDER PROTECTION.

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report assessing the desirability and feasibility of offering incentives to covered members and former members of the Armed Forces for the purpose of encouraging such members to serve in the Bureau of Customs and Border Protection.

(b) COVERED MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.—For purposes of this section, covered members and former members of the Armed Forces are the following:

(1) Members of the reserve components of the Armed Forces.

(2) Former members of the Armed Forces within two years of separation from service in the Armed Forces.

(c) REQUIREMENTS AND LIMITATIONS.—

(1) NATURE OF INCENTIVES.—In considering incentives for purposes of the report required by subsection (a), the Secretaries shall consider such incentives, whether monetary or otherwise and whether or not authorized by current law or regulations, as the Secretaries jointly consider appropriate.

(2) TARGETING OF INCENTIVES.—In assessing any incentive for purposes of the report, the Secretaries shall give particular attention to the utility of such incentive in—

(A) encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by covered members and former of the Armed Forces who have provided border patrol or border security assistance to the Bureau as part of their duties as members of the Armed Forces; and

(B) leveraging military training and experience by accelerating training, or allowing credit to be applied to related areas of training, required for service with the Bureau of Customs and Border Protection.

(3) PAYMENT.—In assessing incentives for purposes of the report, the Secretaries shall assume that any costs of such incentives shall be borne by the Department of Homeland Security.

(d) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of various monetary and non-monetary incentives considered for purposes of the report.

(2) An assessment of the desirability and feasibility of utilizing any such incentive for the purpose specified in subsection (a), including an assessment of the particular utility of such incentive in encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by covered members and former members of the Armed Forces described in subsection (c)(2).

(3) Any other matters that the Secretaries jointly consider appropriate.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services, Homeland Security and Governmental Affairs, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Homeland Security, and Appropriations of the House of Representatives.

SEC. 135. WESTERN HEMISPHERE TRAVEL INITIATIVE.

(a) FINDINGS.—Congress makes the following findings:

(1) United States citizens make approximately 130,000,000 land border crossings each year between the United States and Canada and the United States and Mexico, with approximately 23,000,000 individual United States citizens crossing the border annually.

(2) Approximately 27 percent of United States citizens possess United States passports.

(3) In fiscal year 2005, the Secretary of State issued an estimated 10,100,000 passports, representing an increase of 15 percent from fiscal year 2004.

(4) The Secretary of State estimates that 13,000,000 passports will be issued in fiscal year 2006, 16,000,000 passports will be issued in fiscal year 2007, and 17,000,000 passports will be issued in fiscal year 2008.

(b) EXTENSION OF WESTERN HEMISPHERE TRAVEL INITIATIVE IMPLEMENTATION DEADLINE.—Section 7209(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) is amended by striking ''January 1, 2008'' and inserting ''the later of June 1, 2009, or 3 months after the Secretary of State and the Secretary of Homeland Security make the certification required in subsection (i) of section 133 of the Comprehensive Immigration Reform Act of 2006.''.

(c) PASSPORT CARDS.—

(1) AUTHORITY TO ISSUE.—In order to facilitate travel of United States citizens to Canada, Mexico, the countries located in the Caribbean, and Bermuda, the Secretary of State, in consultation with the Secretary, is authorized to develop a travel document known as a Passport Card.

(2) ISSUANCE.—In accordance with the Western Hemisphere Travel Initiative carried out pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), the Secretary of State, in consultation with the Secretary, shall be authorized to issue to a citizen of the United States who submits an application in accordance with paragraph (5) a travel document that will serve as a Passport Card.

(3) APPLICABILITY.—A Passport Card shall be deemed to be a United States passport for the purpose of United States laws and regulations relating to United States passports.

(4) VALIDITY.—A Passport Card shall be valid for the same period as a United States passport.

(5) LIMITATION ON USE.—A Passport Card may only be used for the purpose of international travel by United States citizens through land and sea ports of entry between—

(A) the United States and Canada;

(B) the United States and Mexico; and

(C) the United States and a country located in the Caribbean or Bermuda.

(6) APPLICATION FOR ISSUANCE.—To be issued a Passport Card, a United States citizen shall submit an application to the Secretary of State. The Secretary of State shall require that such application shall contain the same information as is required to determine citizenship, identity, and eligibility for issuance of a United States passport.

(7) TECHNOLOGY.—

(A) EXPEDITED TRAVELER PROGRAMS.—To the maximum extent practicable, a Passport Card shall be designed and produced to provide a platform on which the expedited traveler programs carried out by the Secretary, such as NEXUS, NEXUS AIR, SENTRI, FAST, and Register Traveler may be added. The Secretary of State and the Secretary shall notify Congress not later than July 1, 2007, if the technology to add expedited travel features to the Passport Card is not developed by that date.

(B) TECHNOLOGY.—The Secretary and the Secretary of State shall establish a technology implementation plan that accommodates desired technology requirements of the Department of State and the Department, allows for future technological innovations, and ensures maximum facilitation at the northern and southern borders.

(8) SPECIFICATIONS FOR CARD.—A Passport Card shall be easily portable and durable. The Secretary of State and the Secretary shall consult regarding the other technical specifications of the Card, including whether the security features of the Card could be combined with other existing identity documentation.

(9) FEE.—

(A) IN GENERAL.—An applicant for a Passport Card shall submit an application under paragraph (6) together with a nonrefundable fee in an amount to be determined by the Secretary of State. Passport Card fees shall be deposited as an offsetting collection to the appropriate Department of State appropriation, to remain available until expended.

(B) LIMITATION ON FEES.—

(i) IN GENERAL.—The Secretary of State shall seek to make the application fee under this paragraph as low as possible.

(ii) MAXIMUM FEE WITHOUT CERTIFICATION.—Except as provided in clause (iii), the application fee may not exceed $24.

(iii) MAXIMUM FEE WITH CERTIFICATION.—The application fee may be not more than $34 if the Secretary of State, the Secretary, and the Postmaster General—

(I) jointly certify to Congress that the cost to produce and issue a Passport Card significantly exceeds $24; and

(II) provide a detailed cost analysis for such fee.

(C) REDUCTION OF FEE.—The Secretary of State shall reduce the fee for a Passport Card for an individual who submits an application for a Passport Card together with an application for a United States passport.

(D) WAIVER OF FEE FOR CHILDREN.—The Secretary of State shall waive the fee for a Passport Card for a child under 18 years of age.

(E) AUDIT.—In the event that the fee for a Passport Card exceeds $24, the Comptroller General of the United States shall conduct an audit to determine whether Passport Cards are issued at the lowest possible cost.

(10) ACCESSIBILITY.—In order to make the Passport Card easily obtainable, an application for a Passport Card shall be accepted in the same manner and at the same locations as an application for a United States passport.

(11) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting, altering, modifying, or otherwise affecting the validity of a United States passport. A United States citizen may possess a United States passport and a Passport Card.

(d) STATE ENROLLMENT DEMONSTRATION PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provisions of law, the Secretary of State and the Secretary shall enter into a memorandum of understanding with 1 or more appropriate States to carry out at least 1 demonstration program as follows:

(A) A State may include an individual's United States citizenship status on a driver's license which meets the requirements of section 202 of the REAL ID Act of 2005 (division B of Public Law 109–13; 49 U.S.C. 30301 note).

(B) The Secretary of State shall develop a mechanism to communicate with a participating State to verify the United States citizenship status of an applicant who voluntarily seeks to have the applicant's United States citizenship status included on a driver's license.

(C) All information collected about the individual shall be managed exclusively in the same manner as information collected through a passport application and no further distribution of such information shall be permitted.

(D) A State may not require an individual to include the individual's citizenship status on a driver's license.

(E) Notwithstanding any other provision of law, a driver's license which meets the requirements of this paragraph shall be deemed to be sufficient documentation to permit the bearer to enter the United States from Canada or Mexico through not less than at least 1 designated international border crossing in each State participating in the demonstration program.

(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall have the effect of creating a national identity card.

(3) AUTHORITY TO EXPAND.—The Secretary of State and the Secretary may expand the demonstration program under this subsection so that such program is carried out in additional States, through additional ports of entry, for additional foreign countries, and in a manner that permits the use of additional types of identification documents to prove identity under the program.

(4) STUDY.—Not later than 6 months after the date that the demonstration program under this subsection is carried out, the Comptroller General of the United States shall conduct a study of—

(A) the cost of the production and issuance of documents that meet the requirements of the program compared with other travel documents;

(B) the impact of the program on the flow of cross-border traffic and the economic impact of the program; and

(C) the security of travel documents that meet the requirements of the program compared with other travel documents.

(5) RECIPROCITY WITH CANADA.—Notwithstanding any other provision of law, if the Secretary of State and the Secretary certify that certain identity documents issued by Canada (or any of its provinces) meet security and citizenship standards comparable to the requirements described in paragraph (1), the Secretary may determine that such documents are sufficient to permit entry into the United States. The Secretary shall work, to the maximum extent possible, to ensure that identification documents issued by Canada that are used as described in this paragraph contain the same technology as identification documents issued by the United States (or any State).

(6) ADDITIONAL PILOT PROGRAMS.—To the maximum extent possible, the Secretary shall seek to conduct pilot programs related to Passport Cards and the State Enrollment Demonstration Program described in this subsection on the international border between the United States and Canada and the international border between the United States and Mexico.

(e) EXPEDITED PROCESSING FOR REPEAT TRAVELERS.—

(1) LAND CROSSINGS.—To the maximum extent practicable at the United States border with Canada and the United States border

with Mexico, the Secretary shall expand expedited traveler programs carried out by the Secretary to all ports of entry and should encourage citizens of the United States to participate in the preenrollment programs, as such programs assist border control officers of the United States in the fight against terrorism by increasing the number of known travelers crossing the border. The identities of such expedited travelers should be entered into a database of known travelers who have been subjected to in-depth background and watch-list checks to permit border control officers to focus more attention on unknown travelers, potential criminals, and terrorists. The Secretary, in consultation with the appropriate officials of the Government of Canada, shall equip at least 6 additional northern border crossings with NEXUS technology and 6 additional southern ports of entry with SENTRI technology.

(2) SEA CROSSINGS.—The Commissioner of Customs and Border Patrol shall conduct and expand trusted traveler programs and pilot programs to facilitate expedited processing of United States citizens returning from pleasure craft trips in Canada, Mexico, the Caribbean, or Bermuda. One such program shall be conducted in Florida and modeled on the I–68 program.

(f) PROCESS FOR INDIVIDUALS LACKING APPROPRIATE DOCUMENTS.—

(1) IN GENERAL.—The Secretary shall establish a program that satisfies section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note)—

(A) to permit a citizen of the United States who has not been issued a United States passport or other appropriate travel document to cross the international border and return to the United States for a time period of not more than 72 hours, on a limited basis, and at no additional fee; or

(B) to establish a process to ascertain the identity of, and make admissibility determinations for, a citizen described in paragraph (A) upon the arrival of such citizen at an international border of the United States.

(2) GRACE PERIOD.—During a time period determined by the Secretary, officers of the United States Customs and Border Patrol may permit citizens of the United States and Canada who are unaware of the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note), or otherwise lacking appropriate documentation, to enter the United States upon a demonstration of citizenship satisfactory to the officer. Officers of the United States Customs and Border Patrol shall educate such individuals about documentary requirements.

(g) TRAVEL BY CHILDREN.—Notwithstanding any other provision of law, the Secretary shall develop a procedure to accommodate groups of children traveling by land across an international border under adult supervision with parental consent without requiring a government-issued identity and citizenship document.

(h) PUBLIC PROMOTION.—The Secretary of State, in consultation with the Secretary, shall develop and implement an outreach plan to inform United States citizens about the Western Hemisphere Travel Initiative and the provisions of this Act, to facilitate the acquisition of appropriate documentation to travel to Canada, Mexico, the countries located in the Caribbean, and Bermuda, and to educate United States citizens who are unaware of the requirements for such travel. Such outreach plan should include—

(1) written notifications posted at or near public facilities, including border crossings, schools, libraries, Amtrak stations, and United States Post Offices located within 50 miles of the international border between the United States and Canada or the international border between the United States and Mexico and other ports of entry;

(2) provisions to seek consent to post such notifications on commercial property, such as offices of State departments of motor vehicles, gas stations, supermarkets, convenience stores, hotels, and travel agencies;

(3) the collection and analysis of data to measure the success of the public promotion plan; and

(4) additional measures as appropriate.

(i) CERTIFICATION.—Notwithstanding any other provision of law, the Secretary may not implement the plan described in section 7209(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1185 note) until the later of June 1, 2009, or the date that is 3 months after the Secretary of State and the Secretary certify to Congress that—

(1)(A) if the Secretary and the Secretary of State develop and issue Passport Cards under this section—

(i) such cards have been distributed to at least 90 percent of the eligible United States citizens who applied for such cards during the 6-month period beginning not earlier than the date the Secretary of State began accepting applications for such cards and ending not earlier than 10 days prior to the date of certification;

(ii) Passport Cards are provided to applicants, on average, within 4 weeks of application or within the same period of time required to adjudicate a passport; and

(iii) a successful pilot has demonstrated the effectiveness of the Passport Card; or

(B) if the Secretary and the Secretary of State do not develop and issue Passport Cards under this section and develop a program to issue an alternative document that satisfies the requirements of section 7209 of the Intelligence Reform and Terrorism Prevention Act of 2004, in addition to the NEXUS, SENTRI, FAST and Border Crossing Card programs, such alternative document is widely available and well publicized;

(2) United States border crossings have been equipped with sufficient document readers and other technologies to ensure that implementation will not substantially slow the flow of traffic and persons across international borders;

(3) officers of the Bureau of Customs and Border Protection have received training and been provided the infrastructure necessary to accept Passport Cards and all alternative identity documents at all United States border crossings; and

(4) the outreach plan described in subsection (g) has been implemented and the Secretary determines such plan has been successful in providing information to United States citizens.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of State and the Secretary such sums as may be necessary to carry out this section, and the amendment made by this section.

Subtitle D—Border Tunnel Prevention Act

SEC. 141. SHORT TITLE.

This subtitle may be cited as the ''Border Tunnel Prevention Act''.

SEC. 142. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, as amended by section 132, is further amended by adding at the end the following:

''§ 556. Border tunnels and passages

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, as amended by section 132, is further amended by adding at the end the following:

''Sec. 556. Border tunnels and passages''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''556,'' before ''1425,''.

SEC. 143. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 556 of title 18, United States Code, as added by section 142.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 556 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

Subtitle E—Border Law Enforcement Relief Act

SEC. 151. SHORT TITLE.

This subtitle may be cited as the ''Border Law Enforcement Relief Act of 2006''.

SEC. 152. FINDINGS.

Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately

secure the Nation's borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest Border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed $89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region

SEC. 153. BORDER RELIEF GRANT PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) DEFINITIONS.—For the purposes of this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this title.

SEC. 154. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

Nothing in this subtitle shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

Subtitle F—Rapid Response Measures

SEC. 161. DEPLOYMENT OF BORDER PATROL AGENTS.

(a) EMERGENCY DEPLOYMENT OF BORDER PATROL AGENTS.—

(1) IN GENERAL.—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional United States Border Patrol agents (referred to in this subtitle as ''agents'') from the Secretary, the Secretary, subject to paragraphs (1) and (2), may provide the State with not more than 1,000 additional agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border into the United States at any location other than an authorized port of entry.

(2) CONSULTATION.—Upon receiving a request for agents under paragraph (1), the Secretary, after consultation with the President, shall grant such request to the extent that providing such agents will not significantly impair the Department's ability to provide border security for any other State.

(3) COLLECTIVE BARGAINING.—Emergency deployments under this subsection shall be made in accordance with all applicable collective bargaining agreements and obligations.

(b) ELIMINATION OF FIXED DEPLOYMENT OF BORDER PATROL AGENTS.—The Secretary shall ensure that agents are not precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances if the temporary use of fixed deployment positions is necessary.

(c) INCREASE IN FULL-TIME BORDER PATROL AGENTS.—Section 5202(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), as amended by section 101(b)(2), is further amended by striking ''2,000'' and inserting ''3,000''.

SEC. 162. BORDER PATROL MAJOR ASSETS.

(a) CONTROL OF BORDER PATROL ASSETS.—The United States Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including, aircraft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

(b) HELICOPTERS AND POWER BOATS.—

(1) HELICOPTERS.—The Secretary shall increase, by not less than 100, the number of helicopters under the control of the United States Border Patrol. The Secretary shall ensure that appropriate types of helicopters are procured for the various missions being performed.

(2) POWER BOATS.—The Secretary shall increase, by not less than 250, the number of power boats under the control of the United States Border Patrol. The Secretary shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(3) USE AND TRAINING.—The Secretary shall—

(A) establish an overall policy on how the helicopters and power boats procured under this subsection will be used; and

(B) implement training programs for the agents who use such assets, including safe operating procedures and rescue operations.

(c) MOTOR VEHICLES.—

(1) QUANTITY.—The Secretary shall establish a fleet of motor vehicles appropriate for use by the United States Border Patrol that will permit a ratio of not less than 1 police-type vehicle for every 3 agents. These police-type vehicles shall be replaced not less than every 3 years. The Secretary shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the United States Border Patrol.

(2) FEATURES.—All motor vehicles purchased for the United States Border Patrol shall—

(A) be appropriate for the mission of the United States Border Patrol; and

(B) have a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

SEC. 163. ELECTRONIC EQUIPMENT.

(a) PORTABLE COMPUTERS.—The Secretary shall ensure that each police-type motor vehicle in the fleet of the United States Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the United States Border Patrol.

(b) RADIO COMMUNICATIONS.—The Secretary shall augment the existing radio communications system so that all law enforcement personnel working in each area where United States Border Patrol operations are conducted have clear and encrypted 2-way radio communication capabilities at all times. Each portable communications device shall be equipped with a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

(c) HAND-HELD GLOBAL POSITIONING SYSTEM DEVICES.—The Secretary shall ensure that each United States Border Patrol agent is issued a state-of-the-art hand-held global positioning system device for navigational purposes.

(d) NIGHT VISION EQUIPMENT.—The Secretary shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each United States Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

SEC. 164. PERSONAL EQUIPMENT.

(a) BODY ARMOR.—The Secretary shall ensure that every agent is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Each agent shall be permitted to select from among a variety of approved brands and styles. Agents shall be strongly encouraged, but not required, to wear such body armor whenever practicable. All body armor shall be replaced not less than every 5 years.

(b) WEAPONS.—The Secretary shall ensure that agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. The Secretary shall ensure that the policies of the Department authorize all agents to carry weapons that are suited to the potential threats that they face.

(c) UNIFORMS.—The Secretary shall ensure that all agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they become worn, unserviceable, or no longer fit properly.

SEC. 165. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this subtitle.

TITLE II—INTERIOR ENFORCEMENT

SEC. 201. REMOVAL AND DENIAL OF BENEFITS TO TERRORIST ALIENS.

(a) ASYLUM.—Section 208(b)(2)(A)(v) (8 U.S.C. 1158(b)(2)(A)(v)) is amended by striking ''or (VI)'' and inserting ''(V), (VI), (VII), or (VIII)''.

(b) CANCELLATION OF REMOVAL.—Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking ''inadmissible under'' and inserting ''described in''; and

(2) by striking ''deportable under'' and inserting ''described in''.

(c) VOLUNTARY DEPARTURE.—Section 240B(b)(1)(C) (8 U.S.C. 1229c(b)(1)(C)) is amended by striking ''deportable under section 237(a)(2)(A)(iii) or section 237(a)(4)'' and inserting ''described in paragraph (2)(A)(iii) or (4) of section 237(a)''.

(d) RESTRICTION ON REMOVAL.—Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is amended—

(1) in clause (iii), by striking ''or'' at the end;

(2) in clause (iv) by striking the period at the end and inserting ''; or'';

(3) by inserting after clause (iv) the following:

''(v) the alien is described in section 237(a)(4)(B) (other than an alien described in section 212(a)(3)(B)(i)(IV) if the Secretary of Homeland Security determines that there are not reasonable grounds for regarding the alien as a danger to the security of the United States).''; and

(4) in the undesignated paragraph, by striking ''For purposes of clause (iv), an alien who is described in section 237(a)(4)(B) shall be considered to be an alien with respect to whom there are reasonable grounds for regarding as a danger to the security of the United States.''.

(e) RECORD OF ADMISSION.—Section 249 (8 U.S.C. 1259) is amended to read as follows:

''SEC. 249. RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN THE CASE OF CERTAIN ALIENS WHO ENTERED THE UNITED STATES PRIOR TO JANUARY 1, 1972.

''A record of lawful admission for permanent residence may be made, in the discretion of the Secretary of Homeland Security and under such regulations as the Secretary may prescribe, for any alien, as of the date of the approval of the alien's application or, if entry occurred before July 1, 1924, as of the date of such entry if no such record is otherwise available, if the alien establishes that the alien—

''(1) is not described in section 212(a)(3)(E) or in section 212(a) (insofar as it relates to criminals, procurers, other immoral persons, subversives, violators of the narcotics laws, or smugglers of aliens);

''(2) entered the United States before January 1, 1972;

''(3) has resided in the United States continuously since such entry;

''(4) is a person of good moral character;

''(5) is not ineligible for citizenship; and

''(6) is not described in section 237(a)(4)(B).''.

(f) EFFECTIVE DATE AND APPLICATION.—The amendments made by this section shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to any act or condition constituting a ground for inadmissibility, excludability, or removal occurring or existing on or after the date of the enactment of this Act.

SEC. 202. DETENTION AND REMOVAL OF ALIENS ORDERED REMOVED.

(a) IN GENERAL.—

(1) AMENDMENTS.—Section 241(a) (8 U.S.C. 1231(a)) is amended—

(A) by striking ''Attorney General'' the first place it appears and inserting ''Secretary of Homeland Security'';

(B) by striking ''Attorney General'' any other place it appears and inserting ''Secretary'';

(C) in paragraph (1)—

(i) in subparagraph (B), by amending clause (ii) to read as follows:

''(ii) If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of the removal of the alien, the expiration date of the stay of removal.'';

(ii) by amending subparagraph (C) to read as follows:

''(C) EXTENSION OF PERIOD.—The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to—

''(i) make all reasonable efforts to comply with the removal order; or

''(ii) fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including failing to make timely application in good faith for travel or other documents necessary to the alien's departure, or conspiring or acting to prevent the alien's removal.''; and

(iii) by adding at the end the following:

''(D) TOLLING OF PERIOD.—If, at the time described in subparagraph (B), the alien is not in the custody of the Secretary under the authority of this Act, the removal period shall not begin until the alien is taken into such custody. If the Secretary lawfully transfers custody of the alien during the removal period to another Federal agency or to a State or local government agency in connection with the official duties of such agency, the removal period shall be tolled, and shall recommence on the date on which the alien is returned to the custody of the Secretary.'';

(D) in paragraph (2), by adding at the end the following: ''If a court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal of an alien who is subject to an administrative final order of removal, the Secretary, in the exercise of discretion, may detain the alien during the pendency of such stay of removal.'';

(E) in paragraph (3), by amending subparagraph (D) to read as follows:

''(D) to obey reasonable restrictions on the alien's conduct or activities, or to perform affirmative acts, that the Secretary prescribes for the alien—

''(i) to prevent the alien from absconding;

''(ii) for the protection of the community; or

''(iii) for other purposes related to the enforcement of the immigration laws.'';

(F) in paragraph (6), by striking ''removal period and, if released,'' and inserting ''removal period, in the discretion of the Secretary, without any limitations other than those specified in this section, until the alien is removed. If an alien is released, the alien'';

(G) by redesignating paragraph (7) as paragraph (10); and

(H) by inserting after paragraph (6) the following:

''(7) PAROLE.—If an alien detained pursuant to paragraph (6) is an applicant for admission, the Secretary of Homeland Security, in the Secretary's discretion, may parole the alien under section 212(d)(5) and may provide, notwithstanding section 212(d)(5), that the alien shall not be returned to custody unless either the alien violates the conditions of the alien's parole or the alien's removal becomes reasonably foreseeable, provided that in no circumstance shall such alien be considered admitted.

''(8) ADDITIONAL RULES FOR DETENTION OR RELEASE OF ALIENS.—The following procedures shall apply to an alien detained under this section:

''(A) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FULLY COOPERATE WITH REMOVAL.—The Secretary of Homeland Security shall establish an administrative review process to determine whether an alien described in subparagraph (B) should be detained or released after the removal period in accordance with this paragraph.

''(B) ALIEN DESCRIBED.—An alien is described in this subparagraph if the alien—

''(i) has effected an entry into the United States;

''(ii) has made all reasonable efforts to comply with the alien's removal order;

''(iii) has cooperated fully with the Secretary's efforts to establish the alien's identity and to carry out the removal order, including making timely application in good faith for travel or other documents necessary for the alien's departure; and

''(iv) has not conspired or acted to prevent removal.

''(C) EVIDENCE.—In making a determination under subparagraph (A), the Secretary—

''(i) shall consider any evidence submitted by the alien;

''(ii) may consider any other evidence, including—

''(I) any information or assistance provided by the Department of State or other Federal agency; and

''(II) any other information available to the Secretary pertaining to the ability to remove the alien.

''(D) AUTHORITY TO DETAIN FOR 90 DAYS BEYOND REMOVAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien for 90 days beyond the removal period (including any extension of the removal period under paragraph (1)(C)).

''(E) AUTHORITY TO DETAIN FOR ADDITIONAL PERIOD.—The Secretary, in the exercise of the Secretary's discretion and without any limitations other than those specified in this section, may detain an alien beyond the 90-day period authorized under subparagraph (D) until the alien is removed, if the Secretary—

''(i) determines that there is a significant likelihood that the alien will be removed in the reasonably foreseeable future; or

''(ii) certifies in writing—

''(I) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

''(II) after receipt of a written recommendation from the Secretary of State, that the release of the alien would likely have serious adverse foreign policy consequences for the United States;

''(III) based on information available to the Secretary (including classified, sensitive, or national security information, and regardless of the grounds upon which the alien was ordered removed), that there is reason to believe that the release of the alien would threaten the national security of the United States;

''(IV) that—

''(aa) the release of the alien would threaten the safety of the community or any person, and conditions of release cannot reasonably be expected to ensure the safety of the community or any person; and

''(bb) the alien—

''(AA) has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)(A)), or of 1 or more attempts or conspiracies to commit any such aggravated felonies for an aggregate term of imprisonment of at least 5 years; or

''(BB) has committed a crime of violence (as defined in section 16 of title 18, United States Code, but not including a purely political offense) and, because of a mental condition or personality disorder and behavior associated with that condition or disorder, is likely to engage in acts of violence in the future; or

''(V) that—

''(aa) the release of the alien would threaten the safety of the community or any person, notwithstanding conditions of release designed to ensure the safety of the community or any person; and

''(bb) the alien has been convicted of 1 or more aggravated felonies (as defined in section 101(a)(43)) for which the alien was sentenced to an aggregate term of imprisonment of not less than 1 year.

''(F) ADMINISTRATIVE REVIEW PROCESS.—The Secretary, without any limitations other than those specified in this section, may detain an alien pending a determination under subparagraph (E)(ii), if the Secretary has initiated the administrative review process identified in subparagraph (A) not later than 30 days after the expiration of the removal period (including any extension of the removal period under paragraph (1)(C)).

''(G) RENEWAL AND DELEGATION OF CERTIFICATION.—

''(i) RENEWAL.—The Secretary may renew a certification under subparagraph (E)(ii) every 6 months, without limitation, after providing the alien with an opportunity to request reconsideration of the certification and to submit documents or other evidence in support of that request. If the Secretary does not renew such certification, the Secretary shall release the alien, pursuant to subparagraph (H).

''(ii) DELEGATION.—Notwithstanding any other provision of law, the Secretary may not delegate the authority to make or renew a certification described in subclause (II), (III), or (V) of subparagraph (E)(ii) to any employee reporting to the Assistant Secretary for Immigration and Customs Enforcement.

''(iii) HEARING.—The Secretary may request that the Attorney General, or a designee of the Attorney General, provide for a hearing to make the determination described in subparagraph (E)(ii)(IV)(bb)(BB).

''(H) RELEASE ON CONDITIONS.—If it is determined that an alien should be released from detention, the Secretary may, in the Secretary's discretion, impose conditions on release in accordance with the regulations prescribed pursuant to paragraph (3).

''(I) REDETENTION.—The Secretary, without any limitations other than those specified in this section, may detain any alien subject to a final removal order who has previously been released from custody if—

''(i) the alien fails to comply with the conditions of release;

''(ii) the alien fails to continue to satisfy the conditions described in subparagraph (B); or

''(iii) upon reconsideration, the Secretary determines that the alien can be detained under subparagraph (E).

''(J) APPLICABILITY.—This paragraph and paragraphs (6) and (7) shall apply to any alien returned to custody under subparagraph (I) as if the removal period terminated on the day of the redetention.

''(K) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE EFFECTED AN ENTRY AND FAIL TO COOPERATE WITH REMOVAL.—The Secretary shall detain an alien until the alien makes all reasonable efforts to comply with a removal order and to cooperate fully with the Secretary's efforts, if the alien—

''(i) has effected an entry into the United States; and

''(ii)(I) and the alien faces a significant likelihood that the alien will be removed in the reasonably foreseeable future, or would have been removed if the alien had not—

''(aa) failed or refused to make all reasonable efforts to comply with a removal order;

''(bb) failed or refused to fully cooperate with the Secretary's efforts to establish the alien's identity and carry out the removal order, including the failure to make timely application in good faith for travel or other documents necessary to the alien's departure; or

''(cc) conspired or acted to prevent removal; or

''(II) the Secretary makes a certification as specified in subparagraph (E), or the renewal of a certification specified in subparagraph (G).

''(L) DETENTION REVIEW PROCESS FOR ALIENS WHO HAVE NOT EFFECTED AN ENTRY.—Except as otherwise provided in this subparagraph, the Secretary shall follow the guidelines established in section 241.4 of title 8, Code of Federal Regulations, when detaining aliens who have not effected an entry. The Secretary may decide to apply the review process outlined in this paragraph.

''(9) JUDICIAL REVIEW.—Without regard to the place of confinement, judicial review of any action or decision made pursuant to paragraph (6), (7), or (8) shall be available exclusively in a habeas corpus proceeding brought in a United States district court and only if the alien has exhausted all administrative remedies (statutory and nonstatutory) available to the alien as of right.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)—

(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to—

(i) any alien subject to a final administrative removal, deportation, or exclusion order that was issued before, on, or after the date of the enactment of this Act; and

(ii) any act or condition occurring or existing before, on, or after the date of the enactment of this Act.

(b) CRIMINAL DETENTION OF ALIENS.—Section 3142 of title 18, United States Code, is amended—

(1) in subsection (e)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by inserting ''(1)'' before ''If, after a hearing'';

(C) in subparagraphs (B) and (C), as redesignated, by striking ''paragraph (1)'' and inserting ''subparagraph (A)''; and

(D) by adding after subparagraph (C), as redesignated, the following:

''(2) Subject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure the appearance of the person as required if the judicial officer finds that there is probable cause to believe that the person—

''(A) is an alien; and

''(B)(i) has no lawful immigration status in the United States;

''(ii) is the subject of a final order of removal; or

''(iii) has committed a felony offense under section 911, 922(g)(5), 1015, 1028, 1425, or 1426 of this title, chapter 75 or 77 of this title, or section 243, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1324, 1325, 1326, 2327, and 1328).''; and

(2) in subsection (g)(3)—

(A) in subparagraph (A), by striking ''and'' at the end; and

(B) by adding at the end the following:

''(C) the person's immigration status; and''.

SEC. 203. AGGRAVATED FELONY.

(a) DEFINITION OF AGGRAVATED FELONY.—Section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended—

(1) by striking ''The term 'aggravated felony' means—'' and inserting ''Notwithstanding any other provision of law (except for the provision providing an effective date for section 203 of the Comprehensive Immigration Reform Act of 2006), the term 'aggravated felony' applies to an offense described in this paragraph, whether in violation of Federal or State law and to such an offense in violation of the law of a foreign country,

for which the term of imprisonment was completed within the previous 15 years, even if the length of the term of imprisonment is based on recidivist or other enhancements and regardless of whether the conviction was entered before, on, or after September 30, 1996, and means—'';

(2) in subparagraph (A), by striking ''murder, rape, or sexual abuse of a minor;'' and inserting ''murder, rape, or sexual abuse of a minor, whether or not the minority of the victim is established by evidence contained in the record of conviction or by evidence extrinsic to the record of conviction;'';

(3) in subparagraph (N), by striking ''paragraph (1)(A) or (2) of'';

(4) in subparagraph (O), by striking ''section 275(a) or 276 committed by an alien who was previously deported on the basis of a conviction for an offense described in another subparagraph of this paragraph'' and inserting ''section 275 or 276 for which the term of imprisonment is at least 1 year'';

(5) in subparagraph (U), by striking ''an attempt or conspiracy to commit an offense described in this paragraph'' and inserting ''aiding or abetting an offense described in this paragraph, or soliciting, counseling, procuring, commanding, or inducing another, attempting, or conspiring to commit such an offense''; and

(6) by striking the undesignated matter following subparagraph (U).

(b) EFFECTIVE DATE AND APPLICATION.—

(1) IN GENERAL.—The amendments made by subsection (a) shall—

(A) take effect on the date of the enactment of this Act; and

(B) apply to any act that occurred on or after the date of the enactment of this Act.

(2) APPLICATION OF IIRAIRA AMENDMENTS.—The amendments to section 101(a)(43) of the Immigration and Nationality Act made by section 321 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (division C of Public Law 104–208; 110 Stat. 3009–627) shall continue to apply, whether the conviction was entered before, on, or after September 30, 1996.

SEC. 204. TERRORIST BARS.

(a) DEFINITION OF GOOD MORAL CHARACTER.—Section 101(f) (8 U.S.C. 1101(f)) is amended—

(1) by inserting after paragraph (1) the following:

''(2) an alien described in section 212(a)(3) or 237(a)(4), as determined by the Secretary of Homeland Security or Attorney General based upon any relevant information or evidence, including classified, sensitive, or national security information;'';

(2) in paragraph (8), by striking ''(as defined in subsection (a)(43))'' and inserting the following: '', regardless of whether the crime was defined as an aggravated felony under subsection (a)(43) at the time of the conviction, unless—

''(A) the person completed the term of imprisonment and sentence not later than 10 years before the date of application; and

''(B) the Secretary of Homeland Security or the Attorney General waives the application of this paragraph; or''; and

(3) in the undesignated matter following paragraph (9), by striking ''a finding that for other reasons such person is or was not of good moral character'' and inserting the following: ''a discretionary finding for other reasons that such a person is or was not of good moral character. In determining an applicant's moral character, the Secretary of Homeland Security and the Attorney General may take into consideration the applicant's conduct and acts at any time and are not limited to the period during which good moral character is required.''.

(b) PENDING PROCEEDINGS.—Section 204(b) (8 U.S.C. 1154(b)) is amended by adding at the end the following: ''A petition may not be approved under this section if there is any administrative or judicial proceeding (whether civil or criminal) pending against the petitioner that could directly or indirectly result in the petitioner's denaturalization or the loss of the petitioner's lawful permanent resident status.''.

(c) CONDITIONAL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—Section 216(e) (8 U.S.C. 1186a(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(2) CERTAIN ALIEN ENTREPRENEURS.—Section 216A(e) (8 U.S.C. 1186b(e)) is amended by inserting ''if the alien has had the conditional basis removed pursuant to this section'' before the period at the end.

(d) JUDICIAL REVIEW OF NATURALIZATION APPLICATIONS.—Section 310(c) (8 U.S.C. 1421(c)) is amended—

(1) by inserting '', not later than 120 days after the Secretary of Homeland Security's final determination,'' after ''may''; and

(2) by adding at the end the following: ''Except that in any proceeding, other than a proceeding under section 340, the court shall review for substantial evidence the administrative record and findings of the Secretary of Homeland Security regarding whether an alien is a person of good moral character, understands and is attached to the principles of the Constitution of the United States, or is well disposed to the good order and happiness of the United States. The petitioner shall have the burden of showing that the Secretary's denial of the application was contrary to law.''.

(e) PERSONS ENDANGERING NATIONAL SECURITY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) PERSONS ENDANGERING THE NATIONAL SECURITY.—A person may not be naturalized if the Secretary of Homeland Security determines, based upon any relevant information or evidence, including classified, sensitive, or national security information, that the person was once an alien described in section 212(a)(3) or 237(a)(4).''.

(f) CONCURRENT NATURALIZATION AND REMOVAL PROCEEDINGS.—Section 318 (8 U.S.C. 1429) is amended by striking ''the Attorney General if'' and all that follows and inserting: ''the Secretary of Homeland Security or any court if there is pending against the applicant any removal proceeding or other proceeding to determine the applicant's inadmissibility or deportability, or to determine whether the applicant's lawful permanent resident status should be rescinded, regardless of when such proceeding was commenced. The findings of the Attorney General in terminating removal proceedings or canceling the removal of an alien under this Act shall not be deemed binding in any way upon the Secretary of Homeland Security with respect to the question of whether such person has established eligibility for naturalization in accordance with this title.''.

(g) DISTRICT COURT JURISDICTION.—Section 336(b) (8 U.S.C. 1447(b)) is amended to read as follows:

''(b) REQUEST FOR HEARING BEFORE DISTRICT COURT.—If there is a failure to render a final administrative decision under section 335 before the end of the 180-day period beginning on the date on which the Secretary of Homeland Security completes all examinations and interviews required under such section, the applicant may apply to the district court for the district in which the applicant resides for a hearing on the matter. The Secretary shall notify the applicant when such examinations and interviews have been completed. Such district court shall only have jurisdiction to review the basis for delay and remand the matter, with appropriate instructions, to the Secretary for the Secretary's determination on the application.''.

(h) EFFECTIVE DATE.—The amendments made by this section—

(1) shall take effect on the date of the enactment of this Act; and

(2) shall apply to any act that occurred on or after such date of enactment.

SEC. 205. INCREASED CRIMINAL PENALTIES RELATED TO GANG VIOLENCE, REMOVAL, AND ALIEN SMUGGLING.

(a) CRIMINAL STREET GANGS.—

(1) INADMISSIBILITY.—Section 212(a)(2) (8 U.S.C. 1182(a)(2)) is amended—

(A) by redesignating subparagraph (F) as subparagraph (J); and

(B) by inserting after subparagraph (E) the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows or has reason to believe—

''(i) is, or has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is inadmissible.''.

(2) DEPORTABILITY.—Section 237(a)(2) (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

''(F) MEMBERS OF CRIMINAL STREET GANGS.—Unless the Secretary of Homeland Security or the Attorney General waives the application of this subparagraph, any alien who the Secretary of Homeland Security or the Attorney General knows or has reason to believe—

''(i) is, or at any time after admission has been, a member of a criminal street gang (as defined in section 521(a) of title 18, United States Code); or

''(ii) has participated in the activities of a criminal street gang, knowing or having reason to know that such activities promoted, furthered, aided, or supported the illegal activity of the criminal gang,

is deportable.''.

(3) TEMPORARY PROTECTED STATUS.—Section 244 (8 U.S.C. 1254a) is amended—

(A) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(B) in subsection (b)(3)—

(i) in subparagraph (B), by striking the last sentence and inserting the following: ''Notwithstanding any other provision of this section, the Secretary of Homeland Security may, for any reason (including national security), terminate or modify any designation under this section. Such termination or modification is effective upon publication in the Federal Register, or after such time as the Secretary may designate in the Federal Register.'';

(ii) in subparagraph (C), by striking ''a period of 12 or 18 months'' and inserting ''any other period not to exceed 18 months'';

(C) in subsection (c)—

(i) in paragraph (1)(B), by striking ''The amount of any such fee shall not exceed $50.'';

(ii) in paragraph (2)(B)—

(I) in clause (i), by striking '', or'' at the end;

(II) in clause (ii), by striking the period at the end and inserting ''; or''; and

(III) by adding at the end the following:

''(iii) the alien is, or at any time after admission has been, a member of a criminal

street gang (as defined in section 521(a) of title 18, United States Code).''; and

(D) in subsection (d)—

(i) by striking paragraph (3); and

(ii) in paragraph (4), by adding at the end the following: ''The Secretary of Homeland Security may detain an alien provided temporary protected status under this section whenever appropriate under any other provision of law.''.

(b) PENALTIES RELATED TO REMOVAL.—Section 243 (8 U.S.C. 1253) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by inserting ''212(a) or'' after ''section''; and

(B) in the matter following subparagraph (D)—

(i) by striking ''or imprisoned not more than four years'' and inserting ''and imprisoned for not less than 6 months or more than 5 years''; and

(ii) by striking '', or both'';

(2) in subsection (b), by striking ''not more than $1000 or imprisoned for not more than one year, or both'' and inserting ''under title 18, United States Code, and imprisoned for not less than 6 months or more than 5 years (or for not more than 10 years if the alien is a member of any of the classes described in paragraphs (1)(E), (2), (3), and (4) of section 237(a)).''; and

(3) by amending subsection (d) to read as follows:

''(d) DENYING VISAS TO NATIONALS OF COUNTRY DENYING OR DELAYING ACCEPTING ALIEN.—The Secretary of Homeland Security, after making a determination that the government of a foreign country has denied or unreasonably delayed accepting an alien who is a citizen, subject, national, or resident of that country after the alien has been ordered removed, and after consultation with the Secretary of State, may instruct the Secretary of State to deny a visa to any citizen, subject, national, or resident of that country until the country accepts the alien that was ordered removed.''.

(c) ALIEN SMUGGLING AND RELATED OFFENSES.—

(1) IN GENERAL.—Section 274 (8 U.S.C. 1324), is amended to read as follows:

''SEC. 274. ALIEN SMUGGLING AND RELATED OFFENSES.

''(a) CRIMINAL OFFENSES AND PENALTIES.—

''(1) PROHIBITED ACTIVITIES.—Except as provided in paragraph (3), a person shall be punished as provided under paragraph (2), if the person—

''(A) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to come to, enter, or cross the border to the United States;

''(B) facilitates, encourages, directs, or induces a person to come to or enter the United States, or to cross the border to the United States, at a place other than a designated port of entry or place other than as designated by the Secretary of Homeland Security, knowing or in reckless disregard of the fact that such person is an alien and regardless of whether such alien has official permission or lawful authority to be in the United States;

''(C) transports, moves, harbors, conceals, or shields from detection a person outside of the United States knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from 1 country to another or on the high seas, under circumstances in which the alien is seeking to enter the United States without official permission or legal authority;

''(D) encourages or induces a person to reside in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the United States;

''(E) transports or moves a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter or be in the United States, if the transportation or movement will further the alien's illegal entry into or illegal presence in the United States;

''(F) harbors, conceals, or shields from detection a person in the United States, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to be in the United States; or

''(G) conspires or attempts to commit any of the acts described in subparagraphs (A) through (F).

''(2) CRIMINAL PENALTIES.—A person who violates any provision under paragraph (1)—

''(A) except as provided in subparagraphs (C) through (G), if the offense was not committed for commercial advantage, profit, or private financial gain, shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both;

''(B) except as provided in subparagraphs (C) through (G), if the offense was committed for commercial advantage, profit, or private financial gain—

''(i) if the violation is the offender's first violation under this subparagraph, shall be fined under such title, imprisoned for not more than 20 years, or both; or

''(ii) if the violation is the offender's second or subsequent violation of this subparagraph, shall be fined under such title, imprisoned for not less than 3 years or more than 20 years, or both;

''(C) if the offense furthered or aided the commission of any other offense against the United States or any State that is punishable by imprisonment for more than 1 year, shall be fined under such title, imprisoned for not less than 5 years or more than 20 years, or both;

''(D) shall be fined under such title, imprisoned not less than 5 years or more than 20 years, or both, if the offense created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury (as defined in section 2119(2) of title 18, United States Code), or inhumane conditions to another person, including—

''(i) transporting the person in an engine compartment, storage compartment, or other confined space;

''(ii) transporting the person at an excessive speed or in excess of the rated capacity of the means of transportation; or

''(iii) transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions;

''(E) if the offense caused serious bodily injury (as defined in section 2119(2) of title 18, United States Code) to any person, shall be fined under such title, imprisoned for not less than 7 years or more than 30 years, or both;

''(F) shall be fined under such title and imprisoned for not less than 10 years or more than 30 years if the offense involved an alien who the offender knew or had reason to believe was—

''(i) engaged in terrorist activity (as defined in section 212(a)(3)(B)); or

''(ii) intending to engage in terrorist activity;

''(G) if the offense caused or resulted in the death of any person, shall be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18, United States Code.

''(3) LIMITATION.—It is not a violation of subparagraph (D), (E), or (F) of paragraph (1)—

''(A) for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year; or

''(B) for an individual or organization, not previously convicted of a violation of this section, to provide an alien who is present in the United States with humanitarian assistance, including medical care, housing, counseling, victim services, and food, or to transport the alien to a location where such assistance can be rendered.

''(4) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this subsection.

''(b) EMPLOYMENT OF UNAUTHORIZED ALIENS.—

''(1) CRIMINAL OFFENSE AND PENALTIES.—Any person who, during any 12-month period, knowingly employs 10 or more individuals with actual knowledge or in reckless disregard of the fact that the individuals are aliens described in paragraph (2), shall be fined under title 18, United States Code, imprisoned for not more than 10 years, or both.

''(2) DEFINITION.—An alien described in this paragraph is an alien who—

''(A) is an unauthorized alien (as defined in section 274A(i));

''(B) is present in the United States without lawful authority; and

''(C) has been brought into the United States in violation of this subsection.

''(c) SEIZURE AND FORFEITURE.—

''(1) IN GENERAL.—Any real or personal property used to commit or facilitate the commission of a violation of this section, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(2) APPLICABLE PROCEDURES.—Seizures and forfeitures under this subsection shall be governed by the provisions of chapter 46 of title 18, United States Code, relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security.

''(3) PRIMA FACIE EVIDENCE IN DETERMINATIONS OF VIOLATIONS.—In determining whether a violation of subsection (a) has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, enter, reside in, remain in, or be in the United States or that such alien had come to, entered, resided in, remained in, or been present in the United States in violation of law shall include—

''(A) any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (including an immigration judge or immigration officer) during any judicial or administrative proceeding authorized under Federal immigration law;

''(B) official records of the Department of Homeland Security, the Department of Justice, or the Department of State concerning the alien's status or lack of status; and

''(C) testimony by an immigration officer having personal knowledge of the facts concerning the alien's status or lack of status.

''(d) AUTHORITY TO ARREST.—No officer or person shall have authority to make any arrests for a violation of any provision of this section except—

''(1) officers and employees designated by the Secretary of Homeland Security, either individually or as a member of a class; and

''(2) other officers responsible for the enforcement of Federal criminal laws.

''(e) ADMISSIBILITY OF VIDEOTAPED WITNESS TESTIMONY.—Notwithstanding any provision of the Federal Rules of Evidence, the videotaped or otherwise audiovisually preserved deposition of a witness to a violation of subsection (a) who has been deported or otherwise expelled from the United States, or is otherwise unavailable to testify, may be admitted into evidence in an action brought for that violation if—

''(1) the witness was available for cross examination at the deposition by the party, if any, opposing admission of the testimony; and

''(2) the deposition otherwise complies with the Federal Rules of Evidence.

''(f) OUTREACH PROGRAM.—

''(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Attorney General and the Secretary of State, as appropriate, shall—

''(A) develop and implement an outreach program to educate people in and out of the United States about the penalties for bringing in and harboring aliens in violation of this section; and

''(B) establish the American Local and Interior Enforcement Needs (ALIEN) Task Force to identify and respond to the use of Federal, State, and local transportation infrastructure to further the trafficking of unlawful aliens within the United States.

''(2) FIELD OFFICES.—The Secretary of Homeland Security, after consulting with State and local government officials, shall establish such field offices as may be necessary to carry out this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums are necessary for the fiscal years 2007 through 2011 to carry out this subsection.

''(g) DEFINITIONS.—In this section:

''(1) CROSSED THE BORDER INTO THE UNITED STATES.—An alien is deemed to have crossed the border into the United States regardless of whether the alien is free from official restraint.

''(2) LAWFUL AUTHORITY.—The term 'lawful authority' means permission, authorization, or license that is expressly provided for in the immigration laws of the United States or accompanying regulations. The term does not include any such authority secured by fraud or otherwise obtained in violation of law or authority sought, but not approved. No alien shall be deemed to have lawful authority to come to, enter, reside in, remain in, or be in the United States if such coming to, entry, residence, remaining, or presence was, is, or would be in violation of law.

''(3) PROCEEDS.—The term 'proceeds' includes any property or interest in property obtained or retained as a consequence of an act or omission in violation of this section.

''(4) UNLAWFUL TRANSIT.—The term 'unlawful transit' means travel, movement, or temporary presence that violates the laws of any country in which the alien is present or any country from which the alien is traveling or moving.''.

(2) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 274 and inserting the following:

''Sec. 274. Alien smuggling and related offenses''.

(d) PROHIBITING CARRYING OR USING A FIREARM DURING AND IN RELATION TO AN ALIEN SMUGGLING CRIME.—Section 924(c) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''any crime of violence'';

(B) in subparagraph (A), by inserting '', alien smuggling crime,'' after ''such crime of violence'';

(C) in subparagraph (D)(ii), by inserting '', alien smuggling crime,'' after ''crime of violence''; and

(2) by adding at the end the following:

''(6) For purposes of this subsection, the term 'alien smuggling crime' means any felony punishable under section 274(a), 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1324(a), 1327, and 1328).''.

SEC. 206. ILLEGAL ENTRY.

(a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is amended to read as follows:

''SEC. 275. ILLEGAL ENTRY.

''(a) IN GENERAL.—

''(1) CRIMINAL OFFENSES.—An alien shall be subject to the penalties set forth in paragraph (2) if the alien—

''(A) knowingly enters or crosses the border into the United States at any time or place other than as designated by the Secretary of Homeland Security;

''(B) knowingly eludes examination or inspection by an immigration officer (including failing to stop at the command of such officer), or a customs or agriculture inspection at a port of entry; or

''(C) knowingly enters or crosses the border to the United States by means of a knowingly false or misleading representation or the knowing concealment of a material fact (including such representation or concealment in the context of arrival, reporting, entry, or clearance requirements of the customs laws, immigration laws, agriculture laws, or shipping laws).

''(2) CRIMINAL PENALTIES.—Any alien who violates any provision under paragraph (1)—

''(A) shall, for the first violation, be fined under title 18, United States Code, imprisoned not more than 6 months, or both;

''(B) shall, for a second or subsequent violation, or following an order of voluntary departure, be fined under such title, imprisoned not more than 2 years, or both;

''(C) if the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, shall be fined under such title, imprisoned not more than 10 years, or both;

''(D) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, shall be fined under such title, imprisoned not more than 15 years, or both; and

''(E) if the violation occurred after the alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 60 months, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(3) PRIOR CONVICTIONS.—The prior convictions described in subparagraphs (C) through (E) of paragraph (2) are elements of the offenses described in that paragraph and the penalties in such subparagraphs shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(A) alleged in the indictment or information; and

''(B) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(4) DURATION OF OFFENSE.—An offense under this subsection continues until the alien is discovered within the United States by an immigration officer.

''(5) ATTEMPT.—Whoever attempts to commit any offense under this section shall be punished in the same manner as for a completion of such offense.

''(b) IMPROPER TIME OR PLACE; CIVIL PENALTIES.—

''(1) IN GENERAL.—Any alien who is apprehended while entering, attempting to enter, or knowingly crossing or attempting to cross the border to the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty, in addition to any criminal or other civil penalties that may be imposed under any other provision of law, in an amount equal to—

''(A) not less than $50 or more than $250 for each such entry, crossing, attempted entry, or attempted crossing; or

''(B) twice the amount specified in paragraph (1) if the alien had previously been subject to a civil penalty under this subsection.

''(2) CROSSED THE BORDER DEFINED.—In this section, an alien is deemed to have crossed the border if the act was voluntary, regardless of whether the alien was under observation at the time of the crossing.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by striking the item relating to section 275 and inserting the following:

''Sec. 275. Illegal entry''.

SEC. 207. ILLEGAL REENTRY.

Section 276 (8 U.S.C. 1326) is amended to read as follows:

''SEC. 276. REENTRY OF REMOVED ALIEN.

''(a) REENTRY AFTER REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed, or who has departed the United States while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under title 18, United States Code, imprisoned not more than 2 years, or both.

''(b) REENTRY OF CRIMINAL OFFENDERS.—Notwithstanding the penalty provided in subsection (a), if an alien described in that subsection—

''(1) was convicted for 3 or more misdemeanors or a felony before such removal or departure, the alien shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

''(2) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 30 months, the alien shall be fined under such title, imprisoned not more than 15 years, or both;

''(3) was convicted for a felony before such removal or departure for which the alien was sentenced to a term of imprisonment of not less than 60 months, the alien shall be fined under such title, imprisoned not more than 20 years, or both;

''(4) was convicted for 3 felonies before such removal or departure, the alien shall be fined under such title, imprisoned not more than 20 years, or both; or

''(5) was convicted, before such removal or departure, for murder, rape, kidnaping, or a felony offense described in chapter 77 (relating to peonage and slavery) or 113B (relating to terrorism) of such title, the alien shall be fined under such title, imprisoned not more than 20 years, or both.

''(c) REENTRY AFTER REPEATED REMOVAL.—Any alien who has been denied admission, excluded, deported, or removed 3 or more times and thereafter enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in the United States, shall be fined under

title 18, United States Code, imprisoned not more than 10 years, or both.

''(d) PROOF OF PRIOR CONVICTIONS.—The prior convictions described in subsection (b) are elements of the crimes described in that subsection, and the penalties in that subsection shall apply only in cases in which the conviction or convictions that form the basis for the additional penalty are—

''(1) alleged in the indictment or information; and

''(2) proven beyond a reasonable doubt at trial or admitted by the defendant.

''(e) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to a violation of this section that—

''(1) prior to the alleged violation, the alien had sought and received the express consent of the Secretary of Homeland Security to reapply for admission into the United States; or

''(2) with respect to an alien previously denied admission and removed, the alien—

''(A) was not required to obtain such advance consent under the Immigration and Nationality Act or any prior Act; and

''(B) had complied with all other laws and regulations governing the alien's admission into the United States.

''(f) LIMITATION ON COLLATERAL ATTACK ON UNDERLYING REMOVAL ORDER.—In a criminal proceeding under this section, an alien may not challenge the validity of any prior removal order concerning the alien unless the alien demonstrates by clear and convincing evidence that—

''(1) the alien exhausted all administrative remedies that may have been available to seek relief against the order;

''(2) the removal proceedings at which the order was issued improperly deprived the alien of the opportunity for judicial review; and

''(3) the entry of the order was fundamentally unfair.

''(g) REENTRY OF ALIEN REMOVED PRIOR TO COMPLETION OF TERM OF IMPRISONMENT.—Any alien removed pursuant to section 241(a)(4) who enters, attempts to enter, crosses the border to, attempts to cross the border to, or is at any time found in, the United States shall be incarcerated for the remainder of the sentence of imprisonment which was pending at the time of deportation without any reduction for parole or supervised release unless the alien affirmatively demonstrates that the Secretary of Homeland Security has expressly consented to the alien's reentry. Such alien shall be subject to such other penalties relating to the reentry of removed aliens as may be available under this section or any other provision of law.

''(h) LIMITATION.—It is not aiding and abetting a violation of this section for an individual to provide an alien with emergency humanitarian assistance, including emergency medical care and food, or to transport the alien to a location where such assistance can be rendered without compensation or the expectation of compensation.

''(i) DEFINITIONS.—In this section:

''(1) CROSSES THE BORDER.—The term 'crosses the border' applies if an alien acts voluntarily, regardless of whether the alien was under observation at the time of the crossing.

''(2) FELONY.—Term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(3) MISDEMEANOR.—The term 'misdemeanor' means any criminal offense punishable by a term of imprisonment of not more than 1 year under the applicable laws of the United States, any State, or a foreign government.

''(4) REMOVAL.—The term 'removal' includes any denial of admission, exclusion, deportation, or removal, or any agreement by which an alien stipulates or agrees to exclusion, deportation, or removal.

''(5) STATE.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.''.

SEC. 208. REFORM OF PASSPORT, VISA, AND IMMIGRATION FRAUD OFFENSES.

(a) PASSPORT, VISA, AND IMMIGRATION FRAUD.—

(1) IN GENERAL.—Chapter 75 of title 18, United States Code, is amended to read as follows:

''CHAPTER 75—PASSPORT, VISA, AND IMMIGRATION FRAUD

''§ 1541. Trafficking in passports

''(a) MULTIPLE PASSPORTS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more passports;

''(2) forges, counterfeits, alters, or falsely makes 10 or more passports;

''(3) secures, possesses, uses, receives, buys, sells, or distributes 10 or more passports, knowing the passports to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more applications for a United States passport (including any supporting documentation), knowing the applications to contain any false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) PASSPORT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material used to make a passport shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1542. False statement in an application for a passport

''Any person who knowingly—

''(1) makes any false statement or representation in an application for a United States passport (including any supporting documentation);

''(2) completes, mails, prepares, presents, signs, or submits an application for a United States passport (including any supporting documentation) knowing the application to contain any false statement or representation; or

''(3) causes or attempts to cause the production of a passport by means of any fraud or false application for a United States passport (including any supporting documentation), if such production occurs or would occur at a facility authorized by the Secretary of State for the production of passports,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1543. Forgery and unlawful production of a passport

''(a) FORGERY.—Any person who—

''(1) knowingly forges, counterfeits, alters, or falsely makes any passport; or

''(2) knowingly transfers any passport knowing it to be forged, counterfeited, altered, falsely made, stolen, or to have been produced or issued without lawful authority,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) UNLAWFUL PRODUCTION.—Any person who knowingly and without lawful authority—

''(1) produces, issues, authorizes, or verifies a passport in violation of the laws, regulations, or rules governing the issuance of the passport;

''(2) produces, issues, authorizes, or verifies a United States passport for or to any person not owing allegiance to the United States; or

''(3) transfers or furnishes a passport to a person for use when such person is not the person for whom the passport was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1544. Misuse of a passport

''(a) IN GENERAL.—Any person who—

''(1) knowingly uses any passport issued or designed for the use of another;

''(2) knowingly uses any passport in violation of the conditions or restrictions therein contained, or in violation of the laws, regulations, or rules governing the issuance and use of the passport;

''(3) knowingly secures, possesses, uses, receives, buys, sells, or distributes any passport knowing it to be forged, counterfeited, altered, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) knowingly violates the terms and conditions of any safe conduct duly obtained and issued under the authority of the United States,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) ENTRY; FRAUD.—Any person who knowingly uses any passport, knowing the passport to be forged, counterfeited, altered, falsely made, procured by fraud, produced or issued without lawful authority, or issued or designed for the use of another—

''(1) to enter or to attempt to enter the United States; or

''(2) to defraud the United States, a State, or a political subdivision of a State,

shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1545. Schemes to defraud aliens

''(a) IN GENERAL.—Any person who knowingly executes a scheme or artifice, in connection with any matter that is authorized by or arises under Federal immigration laws, or any matter the offender claims or represents is authorized by or arises under Federal immigration laws—

''(1) to defraud any person, or

''(2) to obtain or receive from any person, by means of false or fraudulent pretenses, representations, promises, money or anything else of value,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MISREPRESENTATION.—Any person who knowingly and falsely represents himself to be an attorney in any matter arising under Federal immigration laws shall be fined under this title, imprisoned not more than 15 years, or both.

''§ 1546. Immigration and visa fraud

''(a) IN GENERAL.—Any person who knowingly—

''(1) uses any immigration document issued or designed for the use of another;

''(2) forges, counterfeits, alters, or falsely makes any immigration document;

''(3) completes, mails, prepares, presents, signs, or submits any immigration document knowing it to contain any materially false statement or representation;

''(4) secures, possesses, uses, transfers, receives, buys, sells, or distributes any immigration document knowing it to be forged, counterfeited, altered, falsely made, stolen, procured by fraud, or produced or issued without lawful authority;

''(5) adopts or uses a false or fictitious name to evade or to attempt to evade the immigration laws; or

''(6) transfers or furnishes an immigration document to a person without lawful authority for use if such person is not the person for whom the immigration document was issued or designed,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) MULTIPLE VIOLATIONS.—Any person who, during any 3-year period, knowingly—

''(1) and without lawful authority produces, issues, or transfers 10 or more immigration documents;

''(2) forges, counterfeits, alters, or falsely makes 10 or more immigration documents;

''(3) secures, possesses, uses, buys, sells, or distributes 10 or more immigration documents, knowing the immigration documents to be forged, counterfeited, altered, stolen, falsely made, procured by fraud, or produced or issued without lawful authority; or

''(4) completes, mails, prepares, presents, signs, or submits 10 or more immigration documents knowing the documents to contain any materially false statement or representation,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) IMMIGRATION DOCUMENT MATERIALS.—Any person who knowingly and without lawful authority produces, counterfeits, secures, possesses, or uses any official paper, seal, hologram, image, text, symbol, stamp, engraving, plate, or other material, used to make an immigration document shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1547. Marriage fraud

''(a) EVASION OR MISREPRESENTATION.—Any person who—

''(1) knowingly enters into a marriage for the purpose of evading any provision of the immigration laws; or

''(2) knowingly misrepresents the existence or circumstances of a marriage—

''(A) in an application or document authorized by the immigration laws; or

''(B) during any immigration proceeding conducted by an administrative adjudicator (including an immigration officer or examiner, a consular officer, an immigration judge, or a member of the Board of Immigration Appeals),

shall be fined under this title, imprisoned not more than 10 years, or both.

''(b) MULTIPLE MARRIAGES.—Any person who—

''(1) knowingly enters into 2 or more marriages for the purpose of evading any immigration law; or

''(2) knowingly arranges, supports, or facilitates 2 or more marriages designed or intended to evade any immigration law,

shall be fined under this title, imprisoned not more than 20 years, or both.

''(c) COMMERCIAL ENTERPRISE.—Any person who knowingly establishes a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under this title, imprisoned for not more than 10 years, or both.

''(d) DURATION OF OFFENSE.—

''(1) IN GENERAL.—An offense under subsection (a) or (b) continues until the fraudulent nature of the marriage or marriages is discovered by an immigration officer.

''(2) COMMERCIAL ENTERPRISE.—An offense under subsection (c) continues until the fraudulent nature of commercial enterprise is discovered by an immigration officer or other law enforcement officer.

''§ 1548. Attempts and conspiracies

''Any person who attempts or conspires to violate any section of this chapter shall be punished in the same manner as a person who completed a violation of that section.

''§ 1549. Alternative penalties for certain offenses

''(a) TERRORISM.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate an act of international terrorism or domestic terrorism (as those terms are defined in section 2331); or

''(2) with the intent to facilitate an act of international terrorism or domestic terrorism,

shall be fined under this title, imprisoned not more than 25 years, or both.

''(b) OFFENSE AGAINST GOVERNMENT.—Any person who violates any section of this chapter—

''(1) knowing that such violation will facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year; or

''(2) with the intent to facilitate the commission of any offense against the United States (other than an offense in this chapter) or against any State, which offense is punishable by imprisonment for more than 1 year,

shall be fined under this title, imprisoned not more than 20 years, or both.

''§ 1550. Seizure and forfeiture

''(a) FORFEITURE.—Any property, real or personal, used to commit or facilitate the commission of a violation of any section of this chapter, the gross proceeds of such violation, and any property traceable to such property or proceeds, shall be subject to forfeiture.

''(b) APPLICABLE LAW.—Seizures and forfeitures under this section shall be governed by the provisions of chapter 46 relating to civil forfeitures, except that such duties as are imposed upon the Secretary of the Treasury under the customs laws described in section 981(d) shall be performed by such officers, agents, and other persons as may be designated for that purpose by the Secretary of Homeland Security, the Secretary of State, or the Attorney General.

''§ 1551. Additional jurisdiction

''(a) IN GENERAL.—Any person who commits an offense under this chapter within the special maritime and territorial jurisdiction of the United States shall be punished as provided under this chapter.

''(b) EXTRATERRITORIAL JURISDICTION.—Any person who commits an offense under this chapter outside the United States shall be punished as provided under this chapter if—

''(1) the offense involves a United States immigration document (or any document purporting to be such a document) or any matter, right, or benefit arising under or authorized by Federal immigration laws;

''(2) the offense is in or affects foreign commerce;

''(3) the offense affects, jeopardizes, or poses a significant risk to the lawful administration of Federal immigration laws, or the national security of the United States;

''(4) the offense is committed to facilitate an act of international terrorism (as defined in section 2331) or a drug trafficking crime (as defined in section 929(a)(2)) that affects or would affect the national security of the United States;

''(5) the offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

''(6) the offender is a stateless person whose habitual residence is in the United States.

''§ 1552. Additional venue

''(a) IN GENERAL.—An offense under section 1542 may be prosecuted in—

''(1) any district in which the false statement or representation was made;

''(2) any district in which the passport application was prepared, submitted, mailed, received, processed, or adjudicated; or

''(3) in the case of an application prepared and adjudicated outside the United States, in the district in which the resultant passport was produced.

''(b) SAVINGS CLAUSE.—Nothing in this section limits the venue otherwise available under sections 3237 and 3238.

''§ 1553. Definitions

''As used in this chapter:

''(1) The term 'falsely make' means to prepare or complete an immigration document with knowledge or in reckless disregard of the fact that the document—

''(A) contains a statement or representation that is false, fictitious, or fraudulent;

''(B) has no basis in fact or law; or

''(C) otherwise fails to state a fact which is material to the purpose for which the document was created, designed, or submitted.

''(2) The term a 'false statement or representation' includes a personation or an omission.

''(3) The term 'felony' means any criminal offense punishable by a term of imprisonment of more than 1 year under the laws of the United States, any State, or a foreign government.

''(4) The term 'immigration document'—

''(A) means—

''(i) any passport or visa; or

''(ii) any application, petition, affidavit, declaration, attestation, form, identification card, alien registration document, employment authorization document, border crossing card, certificate, permit, order, license, stamp, authorization, grant of authority, or other evidentiary document, arising under or authorized by the immigration laws of the United States; and

''(B) includes any document, photograph, or other piece of evidence attached to or submitted in support of an immigration document.

''(5) The term 'immigration laws' includes—

''(A) the laws described in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17));

''(B) the laws relating to the issuance and use of passports; and

''(C) the regulations prescribed under the authority of any law described in paragraphs (1) and (2).

''(6) The term 'immigration proceeding' includes an adjudication, interview, hearing, or review.

''(7) A person does not exercise 'lawful authority' if the person abuses or improperly exercises lawful authority the person otherwise holds.

''(8) The term 'passport' means a travel document attesting to the identity and nationality of the bearer that is issued under the authority of the Secretary of State, a

foreign government, or an international organization; or any instrument purporting to be the same.

''(9) The term 'produce' means to make, prepare, assemble, issue, print, authenticate, or alter.

''(10) The term 'State' means a State of the United States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

''§ 1554. Authorized law enforcement activities

''Nothing in this chapter shall prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or an intelligence agency of the United States, or any activity authorized under title V of the Organized Crime Control Act of 1970 (84 Stat. 933).

''§ 1555. Exception for refugees, asylees, and other vulnerable persons

''(a) IN GENERAL.—If a person believed to have violated section 1542, 1544, 1546, or 1548 while attempting to enter the United States, without delay, indicates an intention to apply for asylum under section 208 or 241(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158 and 1231), or for relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in accordance with section 208.17 of title 8, Code of Federal Regulations), or under section 101(a)(15)(T), 101(a)(15)(U), 101(a)(27)(J), 101(a)(51), 216(c)(4)(C), 240A(b)(2), or 244(a)(3) (as in effect prior to March 31, 1997) of such Act, or a credible fear of persecution or torture—

''(1) the person shall be referred to an appropriate Federal immigration official to review such claim and make a determination if such claim is warranted;

''(2) if the Federal immigration official determines that the person qualifies for the claimed relief, the person shall not be considered to have violated any such section; and

''(3) if the Federal immigration official determines that the person does not qualify for the claimed relief, the person shall be referred to an appropriate Federal official for prosecution under this chapter.

''(b) SAVINGS PROVISION.—Nothing in this section shall be construed to diminish, increase, or alter the obligations of refugees or the United States under article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

(2) CLERICAL AMENDMENT.—The table of chapters in title 18, United States Code, is amended by striking the item relating to chapter 75 and inserting the following:

''75. Passport, visa, and immigration fraud ..... 1541''.

(b) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:

''(e) PROTECTION FOR LEGITIMATE REFUGEES AND ASYLUM SEEKERS.—The Attorney General, in consultation with the Secretary of Homeland Security, shall develop binding prosecution guidelines for federal prosecutors to ensure that any prosecution of an alien seeking entry into the United States by fraud is consistent with the written terms and limitations of Article 31(1) of the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223)).''.

SEC. 209. INADMISSIBILITY AND REMOVAL FOR PASSPORT AND IMMIGRATION FRAUD OFFENSES.

(a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) (8 U.S.C. 1182(a)(2)(A)(i)) is amended—

(1) in subclause (I), by striking '', or'' at the end and inserting a semicolon;

(2) in subclause (II), by striking the comma at the end and inserting ''; or''; and

(3) by inserting after subclause (II) the following:

''(III) a violation of (or a conspiracy or attempt to violate) any provision of chapter 75 of title 18, United States Code,''.

(b) REMOVAL.—Section 237(a)(3)(B)(iii) (8 U.S.C. 1227(a)(3)(B)(iii)) is amended to read as follows:

''(iii) of a violation of any provision of chapter 75 of title 18, United States Code,''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to proceedings pending on or after the date of the enactment of this Act, with respect to conduct occurring on or after that date.

SEC. 210. INCARCERATION OF CRIMINAL ALIENS.

(a) INSTITUTIONAL REMOVAL PROGRAM.—

(1) CONTINUATION.—The Secretary shall continue to operate the Institutional Removal Program (referred to in this section as the ''Program'') or shall develop and implement another program to—

(A) identify removable criminal aliens in Federal and State correctional facilities;

(B) ensure that such aliens are not released into the community; and

(C) remove such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Secretary may extend the scope of the Program to all States.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State or political subdivision of a State may—

(1) hold an illegal alien for a period not to exceed 14 days after the completion of the alien's State prison sentence to effectuate the transfer of the alien to Federal custody if the alien is removable or not lawfully present in the United States; or

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until authorized employees of the Bureau of Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable to make the Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable to make these resources available to State and local law enforcement agencies in remote locations.

(d) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on the participation of States in the Program and in any other program authorized under subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary in each of the fiscal years 2007 through 2011 to carry out the Program.

SEC. 211. ENCOURAGING ALIENS TO DEPART VOLUNTARILY.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

''(1) INSTEAD OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Secretary of Homeland Security may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection instead of being subject to proceedings under section 240.'';

(B) by striking paragraph (3);

(C) by redesignating paragraph (2) as paragraph (3);

(D) by adding after paragraph (1) the following:

''(2) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—If an alien is not described in paragraph (2)(A)(iii) or (4) of section 237(a), the Attorney General may permit the alien to voluntarily depart the United States at the alien's own expense under this subsection after the initiation of removal proceedings under section 240 and before the conclusion of such proceedings before an immigration judge.'';

(E) in paragraph (3), as redesignated—

(i) by amending subparagraph (A) to read as follows:

''(A) INSTEAD OF REMOVAL.—Subject to subparagraph (C), permission to voluntarily depart under paragraph (1) shall not be valid for any period in excess of 120 days. The Secretary may require an alien permitted to voluntarily depart under paragraph (1) to post a voluntary departure bond, to be surrendered upon proof that the alien has departed the United States within the time specified.'';

(ii) by redesignating subparagraphs (B), (C), and (D) as paragraphs (C), (D), and (E), respectively;

(iii) by adding after subparagraph (A) the following:

''(B) BEFORE THE CONCLUSION OF REMOVAL PROCEEDINGS.—Permission to voluntarily depart under paragraph (2) shall not be valid for any period in excess of 60 days, and may be granted only after a finding that the alien has the means to depart the United States and intends to do so. An alien permitted to voluntarily depart under paragraph (2) shall post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified. An immigration judge may waive the requirement to post a voluntary departure bond in individual cases upon a finding that the alien has presented compelling evidence that the posting of a bond will pose a serious financial hardship and the alien has presented credible evidence that such a bond is unnecessary to guarantee timely departure.'';

(iv) in subparagraph (C), as redesignated, by striking ''subparagraphs (C) and(D)(ii)'' and inserting ''subparagraphs (D) and (E)(ii)'';

(v) in subparagraph (D), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(vi) in subparagraph (E), as redesignated, by striking ''subparagraph (B)'' each place that term appears and inserting ''subparagraph (C)''; and

(F) in paragraph (4), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)'';

(2) in subsection (b)(2), by striking ''a period exceeding 60 days'' and inserting ''any period in excess of 45 days'';

(3) by amending subsection (c) to read as follows:

''(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

''(1) VOLUNTARY DEPARTURE AGREEMENT.—Voluntary departure may only be granted as part of an affirmative agreement by the alien. A voluntary departure agreement under subsection (b) shall include a waiver of

the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.

''(2) CONCESSIONS BY THE SECRETARY.—In connection with the alien's agreement to depart voluntarily under paragraph (1), the Secretary of Homeland Security may agree to a reduction in the period of inadmissibility under subparagraph (A) or (B)(i) of section 212(a)(9).

''(3) ADVISALS.—Agreements relating to voluntary departure granted during removal proceedings under section 240, or at the conclusion of such proceedings, shall be presented on the record before the immigration judge. The immigration judge shall advise the alien of the consequences of a voluntary departure agreement before accepting such agreement.

''(4) FAILURE TO COMPLY WITH AGREEMENT.—

''(A) IN GENERAL.—If an alien agrees to voluntary departure under this section and fails to depart the United States within the time allowed for voluntary departure or fails to comply with any other terms of the agreement (including failure to timely post any required bond), the alien is—

''(i) ineligible for the benefits of the agreement;

''(ii) subject to the penalties described in subsection (d); and

''(iii) subject to an alternate order of removal if voluntary departure was granted under subsection (a)(2) or (b).

''(B) EFFECT OF FILING TIMELY APPEAL.—If, after agreeing to voluntary departure, the alien files a timely appeal of the immigration judge's decision granting voluntary departure, the alien may pursue the appeal instead of the voluntary departure agreement. Such appeal operates to void the alien's voluntary departure agreement and the consequences of such agreement, but precludes the alien from another grant of voluntary departure while the alien remains in the United States.

''(5) VOLUNTARY DEPARTURE PERIOD NOT AFFECTED.—Except as expressly agreed to by the Secretary in writing in the exercise of the Secretary's discretion before the expiration of the period allowed for voluntary departure, no motion, appeal, application, petition, or petition for review shall affect, reinstate, enjoin, delay, stay, or toll the alien's obligation to depart from the United States during the period agreed to by the alien and the Secretary.'';

(4) by amending subsection (d) to read as follows:

''(d) PENALTIES FOR FAILURE TO DEPART.—If an alien is permitted to voluntarily depart under this section and fails to voluntarily depart from the United States within the time period specified or otherwise violates the terms of a voluntary departure agreement, the alien will be subject to the following penalties:

''(1) CIVIL PENALTY.—The alien shall be liable for a civil penalty of $3,000. The order allowing voluntary departure shall specify the amount of the penalty, which shall be acknowledged by the alien on the record. If the Secretary thereafter establishes that the alien failed to depart voluntarily within the time allowed, no further procedure will be necessary to establish the amount of the penalty, and the Secretary may collect the civil penalty at any time thereafter and by whatever means provided by law. An alien will be ineligible for any benefits under this chapter until this civil penalty is paid.

''(2) INELIGIBILITY FOR RELIEF.—The alien shall be ineligible during the time the alien remains in the United States and for a period of 10 years after the alien's departure for any further relief under this section and sections 240A, 245, 248, and 249. The order permitting the alien to depart voluntarily shall inform the alien of the penalties under this subsection.

''(3) REOPENING.—The alien shall be ineligible to reopen the final order of removal that took effect upon the alien's failure to depart, or upon the alien's other violations of the conditions for voluntary departure, during the period described in paragraph (2). This paragraph does not preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the order granting voluntary departure in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''; and

(5) by amending subsection (e) to read as follows:

''(e) ELIGIBILITY.—

''(1) PRIOR GRANT OF VOLUNTARY DEPARTURE.—An alien shall not be permitted to voluntarily depart under this section if the Secretary of Homeland Security or the Attorney General previously permitted the alien to depart voluntarily.

''(2) RULEMAKING.—The Secretary may promulgate regulations to limit eligibility or impose additional conditions for voluntary departure under subsection (a)(1) for any class of aliens. The Secretary or Attorney General may by regulation limit eligibility or impose additional conditions for voluntary departure under subsections (a)(2) or (b) of this section for any class or classes of aliens.''; and

(6) in subsection (f), by adding at the end the following: ''Notwithstanding section 242(a)(2)(D) of this Act, sections 1361, 1651, and 2241 of title 28, United States Code, any other habeas corpus provision, and any other provision of law (statutory or nonstatutory), no court shall have jurisdiction to affect, reinstate, enjoin, delay, stay, or toll the period allowed for voluntary departure under this section.''.

(b) RULEMAKING.—The Secretary shall promulgate regulations to provide for the imposition and collection of penalties for failure to depart under section 240B(d) of the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply with respect to all orders granting voluntary departure under section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) made on or after the date that is 180 days after the enactment of this Act.

(2) EXCEPTION.—The amendment made by subsection (a)(6) shall take effect on the date of the enactment of this Act and shall apply with respect to any petition for review which is filed on or after such date.

SEC. 212. DETERRING ALIENS ORDERED REMOVED FROM REMAINING IN THE UNITED STATES UNLAWFULLY.

(a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) (8 U.S.C. 1182(a)(9)(A)) is amended—

(1) in clause (i), by striking ''seeks admission within 5 years of the date of such removal (or within 20 years'' and inserting ''seeks admission not later than 5 years after the date of the alien's removal (or not later than 20 years after the alien's removal''; and

(2) in clause (ii), by striking ''seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of'' and inserting ''seeks admission not later than 10 years after the date of the alien's departure or removal (or not later than 20 years after''.

(b) BAR ON DISCRETIONARY RELIEF.—Section 274D (9 U.S.C. 324d) is amended—

(1) in subsection (a), by striking ''Commissioner'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following:

''(c) INELIGIBILITY FOR RELIEF.—

''(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien's departure from the United States.

''(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

''(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

''(B) makes a sufficient showing to the satisfaction of the Attorney General that the alien is otherwise eligible for such protection.''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect on the date of the enactment of this Act with respect to aliens who are subject to a final order of removal entered on or after such date.

SEC. 213. PROHIBITION OF THE SALE OF FIREARMS TO, OR THE POSSESSION OF FIREARMS BY CERTAIN ALIENS.

Section 922 of title 18, United States Code, is amended—

(1) in subsection (d)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));'';

(2) in subsection (g)(5)—

(A) in subparagraph (A), by striking ''or'' at the end;

(B) in subparagraph (B), by striking ''(y)(2)'' and all that follows and inserting ''(y), is in a nonimmigrant classification; or''; and

(C) by adding at the end the following:

''(C) has been paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5));''; and

(3) in subsection (y)—

(A) in the header, by striking ''**ADMITTED UNDER NONIMMIGRANT VISAS**'' and inserting ''**IN A NONIMMIGRANT CLASSIFICATION**'';

(B) in paragraph (1), by amending subparagraph (B) to read as follows:

''(B) the term 'nonimmigrant classification' includes all classes of nonimmigrant aliens described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), or otherwise described in the immigration laws (as defined in section 101(a)(17) of such Act).'';

(C) in paragraph (2), by striking ''has been lawfully admitted to the United States under a nonimmigrant visa'' and inserting ''is in a nonimmigrant classification''; and

(D) in paragraph (3)(A), by striking ''Any individual who has been admitted to the United States under a nonimmigrant visa may receive a waiver from the requirements of subsection (g)(5)'' and inserting ''Any

alien in a nonimmigrant classification may receive a waiver from the requirements of subsection (g)(5)(B)''.

SEC. 214. UNIFORM STATUTE OF LIMITATIONS FOR CERTAIN IMMIGRATION, NATURALIZATION, AND PEONAGE OFFENSES.

(a) IN GENERAL.—Section 3291 of title 18, United States Code, is amended to read as follows:

''§ 3291. Immigration, naturalization, and peonage offenses

''No person shall be prosecuted, tried, or punished for a violation of any section of chapters 69 (relating to nationality and citizenship offenses), 75 (relating to passport, visa, and immigration offenses), or 77 (relating to peonage, slavery, and trafficking in persons), for an attempt or conspiracy to violate any such section, for a violation of any criminal provision under section 243, 266, 274, 275, 276, 277, or 278 of the Immigration and Nationality Act (8 U.S.C. 1253, 1306, 1324, 1325, 1326, 1327, and 1328), or for an attempt or conspiracy to violate any such section, unless the indictment is returned or the information filed not later than 10 years after the commission of the offense.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by striking the item relating to section 3291 and inserting the following:

''3291. Immigration, naturalization, and peonage offenses''.

SEC. 215. DIPLOMATIC SECURITY SERVICE.

Section 2709(a)(1) of title 22, United States Code, is amended to read as follows:

''(1) conduct investigations concerning—

''(A) illegal passport or visa issuance or use;

''(B) identity theft or document fraud affecting or relating to the programs, functions, and authorities of the Department of State;

''(C) violations of chapter 77 of title 18, United States Code; and

''(D) Federal offenses committed within the special maritime and territorial jurisdiction of the United States (as defined in section 7(9) of title 18, United States Code);''.

SEC. 216. FIELD AGENT ALLOCATION AND BACKGROUND CHECKS.

(a) IN GENERAL.—Section 103 (8 U.S.C. 1103) is amended—

(1) by amending subsection (f) to read as follows:

''(f) MINIMUM NUMBER OF AGENTS IN STATES.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate to each State—

''(A) not fewer than 40 full-time active duty agents of the Bureau of Immigration and Customs Enforcement to—

''(i) investigate immigration violations; and

''(ii) ensure the departure of all removable aliens; and

''(B) not fewer than 15 full-time active duty agents of the Bureau of Citizenship and Immigration Services to carry out immigration and naturalization adjudication functions.

''(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any State with a population of less than 2,000,000, as most recently reported by the Bureau of the Census''; and

(2) by adding at the end the following:

''(i) Notwithstanding any other provision of law, appropriate background and security checks, as determined by the Secretary of Homeland Security, shall be completed and assessed and any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act shall be investigated and resolved before the Secretary or the Attorney General may—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(1) shall take effect on the date that is 90 days after the date of the enactment of this Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Director of the Federal Bureau of Investigations $3,125,000 for each of fiscal years 2007 through 2011 for improving the speed and accuracy of background and security checks conducted by the Federal Bureau of Investigations on behalf of the Bureau of Citizenship and Immigrations Services.

(d) REPORT ON BACKGROUND AND SECURITY CHECKS.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigations shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the background and security checks conducted by the Federal Bureau of Investigations on behalf of the Bureau of Citizenship and Immigrations Services

(2) CONTENT.—The report required under paragraph (1) shall include—

(A) a description of the background and security check program;

(B) a statistical breakdown of the background and security check delays associated with different types of immigration applications;

(C) a statistical breakdown of the background and security check delays by applicant country of origin; and

(D) the steps the Federal Bureau of Investigations is taking to expedite background and security checks that have been pending for more than 60 days.

SEC. 217. CONSTRUCTION.

(a) IN GENERAL.—Chapter 4 of title III (8 U.S.C. 1501 et seq.) is amended by adding at the end the following:

''SEC. 362. CONSTRUCTION.

''(a) IN GENERAL.—Nothing in this Act or in any other provision of law shall be construed to require the Secretary of Homeland Security, the Attorney General, the Secretary of State, the Secretary of Labor, or any other authorized head of any Federal agency to grant any application, approve any petition, or grant or continue any status or benefit under the immigration laws by, to, or on behalf of—

''(1) any alien described in subparagraph (A)(i), (A)(iii), (B), or (F) of section 212(a)(3) or subparagraph (A)(i), (A)(iii), or (B) of section 237(a)(4);

''(2) any alien with respect to whom a criminal or other investigation or case is pending that is material to the alien's inadmissibility, deportability, or eligibility for the status or benefit sought; or

''(3) any alien for whom all law enforcement checks, as deemed appropriate by such authorized official, have not been conducted and resolved.

''(b) DENIAL; WITHHOLDING.—An official described in subsection (a) may deny or withhold (with respect to an alien described in subsection (a)(1)) or withhold pending resolution of the investigation, case, or law enforcement checks (with respect to an alien described in paragraph (2) or (3) of subsection (a)) any such application, petition, status, or benefit on such basis.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 361 the following:

''Sec. 362. Construction''.

SEC. 218. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) courts costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

SEC. 219. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

SEC. 220. REDUCING ILLEGAL IMMIGRATION AND ALIEN SMUGGLING ON TRIBAL LANDS.

(a) GRANTS AUTHORIZED.—The Secretary may award grants to Indian tribes with lands adjacent to an international border of the United States that have been adversely affected by illegal immigration.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) law enforcement activities;

(2) health care services;

(3) environmental restoration; and

(4) the preservation of cultural resources.

(c) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that—

(1) describes the level of access of Border Patrol agents on tribal lands;

(2) describes the extent to which enforcement of immigration laws may be improved by enhanced access to tribal lands;

(3) contains a strategy for improving such access through cooperation with tribal authorities; and

(4) identifies grants provided by the Department for Indian tribes, either directly or

through State or local grants, relating to border security expenses.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.

SEC. 221. ALTERNATIVES TO DETENTION.

The Secretary shall conduct a study of—

(1) the effectiveness of alternatives to detention, including electronic monitoring devices and intensive supervision programs, in ensuring alien appearance at court and compliance with removal orders;

(2) the effectiveness of the Intensive Supervision Appearance Program and the costs and benefits of expanding that program to all States; and

(3) other alternatives to detention, including—

(A) release on an order of recognizance;

(B) appearance bonds; and

(C) electronic monitoring devices.

SEC. 222. CONFORMING AMENDMENT.

Section 101(a)(43)(P) (8 U.S.C. 1101(a)(43)(P)) is amended—

(1) by striking ''(i) which either is falsely making, forging, counterfeiting, mutilating, or altering a passport or instrument in violation of section 1543 of title 18, United States Code, or is described in section 1546(a) of such title (relating to document fraud) and (ii)'' and inserting ''which is described in chapter 75 of title 18, United States Code, and''; and

(2) by inserting the following: ''that is not described in section 1548 of such title (relating to increased penalties), and'' after ''first offense''.

SEC. 223. REPORTING REQUIREMENTS.

(a) CLARIFYING ADDRESS REPORTING REQUIREMENTS.—Section 265 (8 U.S.C. 1305) is amended—

(1) in subsection (a)—

(A) by striking ''notify the Attorney General in writing'' and inserting ''submit written or electronic notification to the Secretary of Homeland Security, in a manner approved by the Secretary,'';

(B) by striking ''the Attorney General may require by regulation'' and inserting ''the Secretary may require''; and

(C) by adding at the end the following: ''If the alien is involved in proceedings before an immigration judge or in an administrative appeal of such proceedings, the alien shall submit to the Attorney General the alien's current address and a telephone number, if any, at which the alien may be contacted.'';

(2) in subsection (b), by striking ''Attorney General'' each place such term appears and inserting ''Secretary of Homeland Security'';

(3) in subsection (c), by striking ''given to such parent'' and inserting ''given by such parent''; and

(4) by adding at the end the following:

''(d) ADDRESS TO BE PROVIDED.—

''(1) IN GENERAL.—Except as otherwise provided by the Secretary under paragraph (2), an address provided by an alien under this section shall be the alien's current residential mailing address, and shall not be a post office box or other non-residential mailing address or the address of an attorney, representative, labor organization, or employer.

''(2) SPECIFIC REQUIREMENTS.—The Secretary may provide specific requirements with respect to—

''(A) designated classes of aliens and special circumstances, including aliens who are employed at a remote location; and

''(B) the reporting of address information by aliens who are incarcerated in a Federal, State, or local correctional facility.

''(3) DETENTION.—An alien who is being detained by the Secretary under this Act is not required to report the alien's current address under this section during the time the alien remains in detention, but shall be required to notify the Secretary of the alien's address under this section at the time of the alien's release from detention.

''(e) USE OF MOST RECENT ADDRESS PROVIDED BY THE ALIEN.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may provide for the appropriate coordination and cross referencing of address information provided by an alien under this section with other information relating to the alien's address under other Federal programs, including—

''(A) any information pertaining to the alien, which is submitted in any application, petition, or motion filed under this Act with the Secretary of Homeland Security, the Secretary of State, or the Secretary of Labor;

''(B) any information available to the Attorney General with respect to an alien in a proceeding before an immigration judge or an administrative appeal or judicial review of such proceeding;

''(C) any information collected with respect to nonimmigrant foreign students or exchange program participants under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372); and

''(D) any information collected from State or local correctional agencies pursuant to the State Criminal Alien Assistance Program.

''(2) RELIANCE.—The Secretary may rely on the most recent address provided by the alien under this section or section 264 to send to the alien any notice, form, document, or other matter pertaining to Federal immigration laws, including service of a notice to appear. The Attorney General and the Secretary may rely on the most recent address provided by the alien under section 239(a)(1)(F) to contact the alien about pending removal proceedings.

''(3) OBLIGATION.—The alien's provision of an address for any other purpose under the Federal immigration laws does not excuse the alien's obligation to submit timely notice of the alien's address to the Secretary under this section (or to the Attorney General under section 239(a)(1)(F) with respect to an alien in a proceeding before an immigration judge or an administrative appeal of such proceeding).''.

(b) CONFORMING CHANGES WITH RESPECT TO REGISTRATION REQUIREMENTS.—Chapter 7 of title II (8 U.S.C. 1301 et seq.) is amended—

(1) in section 262(c), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'';

(2) in section 263(a), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(3) in section 264—

(A) in subsections (a), (b), (c), and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(B) in subsection (f)—

(i) by striking ''Attorney General is authorized'' and inserting ''Secretary of Homeland Security and Attorney General are authorized''; and

(ii) by striking ''Attorney General or the Service'' and inserting ''Secretary or the Attorney General''.

(c) PENALTIES.—Section 266 (8 U.S.C. 1306) is amended—

(1) by amending subsection (b) to read as follows:

''(b) FAILURE TO PROVIDE NOTICE OF ALIEN'S CURRENT ADDRESS.—

''(1) CRIMINAL PENALTIES.—Any alien or any parent or legal guardian in the United States of any minor alien who fails to notify the Secretary of Homeland Security of the alien's current address in accordance with section 265 shall be fined under title 18, United States Code, imprisoned for not more than 6 months, or both.

''(2) EFFECT ON IMMIGRATION STATUS.—Any alien who violates section 265 (regardless of whether the alien is punished under paragraph (1)) and does not establish to the satisfaction of the Secretary that such failure was reasonably excusable or was not willful shall be taken into custody in connection with removal of the alien. If the alien has not been inspected or admitted, or if the alien has failed on more than 1 occasion to submit notice of the alien's current address as required under section 265, the alien may be presumed to be a flight risk. The Secretary or the Attorney General, in considering any form of relief from removal which may be granted in the discretion of the Secretary or the Attorney General, may take into consideration the alien's failure to comply with section 265 as a separate negative factor. If the alien failed to comply with the requirements of section 265 after becoming subject to a final order of removal, deportation, or exclusion, the alien's failure shall be considered as a strongly negative factor with respect to any discretionary motion for reopening or reconsideration filed by the alien.'';

(2) in subsection (c), by inserting ''or a notice of current address'' before ''containing statements''; and

(3) in subsections (c) and (d), by striking ''Attorney General'' each place it appears and inserting ''Secretary''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to proceedings initiated on or after the date of the enactment of this Act.

(2) CONFORMING AND TECHNICAL AMENDMENTS.—The amendments made by paragraphs (1)(A), (1)(B), (2) and (3) of subsection (a) are effective as if enacted on March 1, 2003.

SEC. 224. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.''; and

(2) in paragraph (4), by adding at the end the following: ''The cost of any equipment required to be purchased under such written agreement and necessary to perform the functions under this subsection shall be reimbursed by the Secretary of Homeland Security.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 225. REMOVAL OF DRUNK DRIVERS.

(a) IN GENERAL.—Section 101(a)(43)(F) (8 U.S.C. 1101(a)(43)(F)) is amended by inserting '', including a third drunk driving conviction, regardless of the States in which the convictions occurred or whether the offenses are classified as misdemeanors or felonies under State law,'' after ''offense)''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall—

(1) take effect on the date of the enactment of this Act; and

(2) apply to convictions entered on or after such date.

SEC. 226. MEDICAL SERVICES IN UNDERSERVED AREAS.

Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking ''and before June 1, 2006.''.

SEC. 227. EXPEDITED REMOVAL.

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''expedited removal of criminal aliens'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has not been lawfully admitted to the United States for permanent residence; and

''(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTIONS.—Section 235(b)(1)(F) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(F)) is amended—

(A) by striking ''and who arrives by aircraft at a port of entry'' and inserting ''and—'; and

(B) by adding at the end the following:

''(i) who arrives by aircraft at a port of entry; or

''(ii) who is present in the United States and arrived in any manner at or between a port of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

SEC. 228. PROTECTING IMMIGRANTS FROM CONVICTED SEX OFFENDERS.

(a) IMMIGRANTS.—Section 204(a)(1) (8 U.S.C. 1154(a)(1)), is amended—

(1) in subparagraph (A)(i), by striking ''Any'' and inserting ''Except as provided in clause (vii), any'';

(2) in subparagraph (A), by inserting after clause (vi) the following:

''(vii) Clause (i) shall not apply to a citizen of the United States who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.''; and

(3) in subparagraph (B)(i)—

(A) by striking ''Any alien'' and inserting the following: ''(I) Except as provided in subclause (II), any alien''; and

(B) by adding at the end the following:

''(II) Subclause (I) shall not apply in the case of an alien admitted for permanent residence who has been convicted of an offense described in subparagraph (A), (I), or (K) of section 101(a)(43), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the alien lawfully admitted for permanent residence poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.''.

(b) NONIMMIGRANTS.—Section 101(a)(15)(K) (8 U.S.C. 1101(a)(15)(K)), is amended by inserting ''(other than a citizen described in section 204(a)(1)(A)(vii))'' after ''citizen of the United States'' each place that phrase appears.

SEC. 229. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following new section:

''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including the transportation across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision; plus

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; plus

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) if practicable, aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Prior to entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

SEC. 230. LAUNDERING OF MONETARY INSTRUMENTS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ''section 1590 (relating to trafficking with respect to peonage, slavery, involuntary servitude, or forced labor),'' after ''section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction),''; and

(2) by inserting ''section 274(a) of the Immigration and Nationality Act (8 U.S.C.1324(a)) (relating to bringing in and harboring certain aliens),'' after ''section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling),''.

SEC. 231. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NATIONAL CRIME INFORMATION CENTER.—

(1) IN GENERAL.—Except as provided in paragraph (3), not later than 180 days after the date of the enactment of this Act, the Secretary shall provide to the head of the National Crime Information Center of the Department of Justice the information that the Secretary has or maintains related to any alien—

(A) against whom a final order of removal has been issued;

(B) who enters into a voluntary departure agreement, or is granted voluntary departure by an immigration judge, whose period for departure has expired under subsection (a)(3) of section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c) (as amended by section 211(a)(1)(C)), subsection (b)(2) of such section 240B, or who has violated a condition of a voluntary departure agreement under such section 240B;

(C) whom a Federal immigration officer has confirmed to be unlawfully present in the United States; and

(D) whose visa has been revoked.

(2) REMOVAL OF INFORMATION.—The head of the National Crime Information Center should promptly remove any information provided by the Secretary under paragraph (1) related to an alien who is granted lawful authority to enter or remain legally in the United States.

(3) PROCEDURE FOR REMOVAL OF ERRONEOUS INFORMATION.—The Secretary, in consultation with the head of the National Crime Information Center of the Department of Justice, shall develop and implement a procedure by which an alien may petition the Secretary or head of the National Crime Information Center, as appropriate, to remove any erroneous information provided by the Secretary under paragraph (1) related to such alien. Under such procedures, failure by the alien to receive notice of a violation of the immigration laws shall not constitute cause for removing information provided by the Secretary under paragraph (1) related to such alien, unless such information is erroneous. Notwithstanding the 180-day time period set forth in paragraph (1), the Secretary shall not provide the information required under paragraph (1) until the procedures required by this paragraph are developed and implemented.

(b) INCLUSION OF INFORMATION IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking ''and'' at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

''(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and''.

SEC. 232. COOPERATIVE ENFORCEMENT PROGRAMS.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall negotiate and execute, where practicable, a cooperative enforcement agreement described in section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) with at least 1 law enforcement agency in each State, to train law enforcement officers in the detection and apprehension of individuals engaged in transporting, harboring, sheltering, or encouraging aliens in violation of section 274 of such Act (8 U.S.C. 1324).

SEC. 233. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURES AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, at least 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 20,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States subject to available appropriations.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a), subject to available appropriations.

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at the United States ports of entry or along the international land borders of the United States.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 234. DETERMINATION OF IMMIGRATION STATUS OF INDIVIDUALS CHARGED WITH FEDERAL OFFENSES.

(a) RESPONSIBILITY OF UNITED STATES ATTORNEYS.—Beginning not later than 2 years after the date of the enactment of this Act, the office of the United States Attorney that is prosecuting a criminal case in a Federal court—

(1) shall determine, not later than 30 days after filing the initial pleadings in the case, whether each defendant in the case is lawfully present in the United States (subject to subsequent legal proceedings to determine otherwise);

(2)(A) if the defendant is determined to be an alien lawfully present in the United States, shall notify the court in writing of the determination and the current status of the alien under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) if the defendant is determined not to be lawfully present in the United States, shall notify the court in writing of the determination, the defendant's alien status, and, to the extent possible, the country of origin or legal residence of the defendant; and

(3) ensure that the information described in paragraph (2) is included in the case file and the criminal records system of the office of the United States attorney.

(b) GUIDELINES.—A determination made under subsection (a)(1) shall be made in accordance with guidelines of the Executive Office for Immigration Review of the Department of Justice.

(c) RESPONSIBILITIES OF FEDERAL COURTS.—

(1) MODIFICATIONS OF RECORDS AND CASE MANAGEMENTS SYSTEMS.—Not later than 2 years after the date of the enactment of this Act, all Federal courts that hear criminal cases, or appeals of criminal cases, shall modify their criminal records and case management systems, in accordance with guidelines which the Director of the Administrative Office of the United States Courts shall establish, so as to enable accurate reporting of information described in subsection (a)(2).

(2) DATA ENTRIES.—Beginning not later than 2 years after the date of the enactment of this Act, each Federal court described in paragraph (1) shall enter into its electronic records the information contained in each notification to the court under subsection (a)(2).

(d) CONSTRUCTION.—Nothing in this section may be construed to provide a basis for admitting evidence to a jury or releasing information to the public regarding an alien's immigration status.

(e) ANNUAL REPORT TO CONGRESS.—The Director of the Administrative Office of the United States Courts shall include, in the annual report filed with Congress under section 604 of title 28, United States Code—

(1) statistical information on criminal trials of aliens in the courts and criminal convictions of aliens in the lower courts and upheld on appeal, including the type of crime in each case and including information on the legal status of the aliens; and

(2) recommendations on whether additional court resources are needed to accommodate the volume of criminal cases brought against aliens in the Federal courts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for

each of fiscal years 2007 through 2011, such sums as may be necessary to carry out this Act. Funds appropriated pursuant to this subsection in any fiscal year shall remain available until expended.

SEC. 235. EXPANSION OF THE JUSTICE PRISONER AND ALIEN TRANSFER SYSTEM.

Not later than 60 days after the date of enactment of this Act, the Attorney General shall issue a directive to expand the Justice Prisoner and Alien Transfer System (JPATS) so that such System provides additional services with respect to aliens who are illegally present in the United States. Such expansion should include—

(1) increasing the daily operations of such System with buses and air hubs in 3 geographic regions;

(2) allocating a set number of seats for such aliens for each metropolitan area;

(3) allowing metropolitan areas to trade or give some of seats allocated to them under the System for such aliens to other areas in their region based on the transportation needs of each area; and

(4) requiring an annual report that analyzes of the number of seats that each metropolitan area is allocated under this System for such aliens and modifies such allocation if necessary.

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 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 fails to comply with the requirements of subsections (c) and (d).

''(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) in the case of an individual who is a national of the United States—

''(I) a United States passport; or

''(II) a driver's license or identity card issued by a State, the Commonwealth of the Northern Mariana Islands, or an outlying possession of the United States that satisfies the requirements of division B of Public Law 109–13 (119 Stat. 302);

''(ii) in the case of an alien lawfully admitted for permanent residence in the United States, a permanent resident card, as specified by the Secretary;

''(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) in the case of an individual who is unable to obtain a document described in clause (i), (ii), or (iii), a document designated 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; 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—

''(A) 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 RECORDKEEPING 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.

''(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 not less than $400,000,000 have been appropriated and made available 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 individuals employed as of, or hired 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 and, if the individual was born in the United States, the State in which such individual was born;

''(II) the individual's social security account number;

''(III) the employment identification number of the individual's employer during any one of the 5 most recently completed calendar years; and

''(IV) in the case of an individual who does not attest that the individual is a national of the United States under subsection (c)(1)(A)(i), 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.

''(iii) EIN REQUIREMENTS.—

''(I) REQUIREMENT TO PROVIDE.—An employer shall provide the employer identification number issued to such employer to the individual, upon request, for purposes of providing the information under clause (i)(III).

''(II) REQUIREMENT TO AFFIRMATIVELY STATE A LACK OF RECENT EMPLOYMENT.—An individual providing information under clause (i)(III) who was not employed in the United States during any of the 5 most recently completed calendar years shall affirmatively state on the form described in subsection (c)(1)(A)(i) that no employer identification number is provided because the individual was not employed in the United States during such period.

''(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 (1)(A)(i), 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 provide 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 that not less than $400,000,000 have been appropriated and made available to the Secretary to implement this subsection, 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 nonconfirmation notice issued for an individual was not caused by an act or omission of the individual, the Secretary shall compensate the individual 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 compensate the individual 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 that not less than $400,000,000 have been appropriated and made available to the Secretary to implement this subsection, 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, waive operation of this subsection, limit the duration or scope of the debarment, or may refer to an appropriate lead agency the decision of whether to debar the employer, for what duration, and under what scope in accordance with the procedures and standards prescribed by the Federal Acquisition Regulation. However, any proposed debarment predicated on an administrative determination of liability for civil penalty by the Secretary or the Attorney General shall not be reviewable in any debarment proceeding. The decision of whether to debar or take 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 debarment 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(c) and (d)''; and

(B) in subsection (g)(2)(B)(ii), by striking ''274A(b)(5)'' and inserting ''274A(c)''.

(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, employer identification number, 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) a 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(l)(3) (8 U.S.C. 1324b(l)(3)) is amended by inserting ''and an additional $40,000,000 for each of fiscal years 2007 through 2009'' before the period at the end.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 180 days after the date of the enactment of this Act and shall apply to violations occurring on or after such date.

TITLE IV—NONIMMIGRANT AND IMMIGRANT VISA REFORM

Subtitle A—Temporary Guest Workers

SEC. 401. IMMIGRATION IMPACT STUDY.

(a) EFFECTIVE DATE.—Any regulation that would increase the number of aliens who are eligible for legal status may not take effect before 90 days after the date on which the Director of the Bureau of the Census submits a report to Congress under subsection (c).

(b) STUDY.—The Director of the Bureau of the Census, jointly with the Secretary, the Secretary of Agriculture, the Secretary of Education, the Secretary of Energy, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Attorney General, and the Administrator of the Environmental Protection Agency, shall undertake a study examining the impacts of the current and proposed annual grants of legal status, including immigrant and nonimmigrant status, along with the current level of illegal immigration, on the infrastructure of and quality of life in the United States.

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of the Bureau of the Census shall submit to Congress a report on the findings of the study required by subsection (b), including the following information:

(1) An estimate of the total legal and illegal immigrant populations of the United States, as they relate to the total population.

(2) The projected impact of legal and illegal immigration on the size of the population of the United States over the next 50 years, which regions of the country are likely to experience the largest increases, which small towns and rural counties are likely to lose their character as a result of such growth, and how the proposed regulations would affect these projections.

(3) The impact of the current and projected foreign-born populations on the natural environment, including the consumption of nonrenewable resources, waste production and disposal, the emission of pollutants, and the loss of habitat and productive farmland, an estimate of the public expenditures required to maintain current standards in each of these areas, the degree to which current standards will deteriorate if such expenditures are not forthcoming, and the additional effects the proposed regulations would have.

(4) The impact of the current and projected foreign-born populations on employment and wage rates, particularly in industries such as agriculture and services in which the foreign born are concentrated, an estimate of the associated public costs, and the additional effects the proposed regulations would have.

(5) The impact of the current and projected foreign-born populations on the need for additions and improvements to the transportation infrastructure of the United States, an estimate of the public expenditures required to meet this need, the impact on Americans' mobility if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(6) The impact of the current and projected foreign-born populations on enrollment, class size, teacher-student ratios, and the quality of education in public schools, an estimate of the public expenditures required to maintain current median standards, the degree to those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(7) The impact of the current and projected foreign-born populations on home ownership rates, housing prices, and the demand for low-income and subsidized housing, the public expenditures required to maintain current median standards in these areas, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(8) The impact of the current and projected foreign-born populations on access to quality health care and on the cost of health care and health insurance, an estimate of the public expenditures required to maintain current median standards, the degree to which those standards will deteriorate if such expenditures are not forthcoming, and the additional effect the proposed regulations would have.

(9) The impact of the current and projected foreign-born populations on the criminal justice system in the United States, an estimate of the associated public costs, and the additional effect the proposed regulations would have.

SEC. 402. NONIMMIGRANT TEMPORARY WORKER.

(a) TEMPORARY WORKER CATEGORY.—Section 101(a)(15)(H) (8 U.S.C. 1101(a)(15)(H)) is amended to read as follows:

''(H) an alien—

''(i)(b) subject to section 212(j)(2)—

''(aa) who is coming temporarily to the United States to perform services (other than services described in clause (ii)(a) or subparagraph (O) or (P)) in a specialty occupation described in section 214(i)(1) or as a fashion model;

''(bb) who meets the requirements for the occupation specified in section 214(i)(2) or, in the case of a fashion model, is of distinguished merit and ability; and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that the intending employer has filed an application with the Secretary in accordance with section 212(n)(1);

''(b1)(aa) who is entitled to enter the United States under the provisions of an agreement listed in section 214(g)(8)(A);

''(bb) who is engaged in a specialty occupation described in section 214(i)(3); and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed an attestation with the Secretary of Labor in accordance with section 212(t)(1); or

''(c)(aa) who is coming temporarily to the United States to perform services as a registered nurse;

''(bb) who meets the qualifications described in section 212(m)(1); and

''(cc) with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility (as defined in section 212(m)(6)) for which the alien will perform the services; or

''(ii)(a) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning; and

''(bb) is coming temporarily to the United States to perform agricultural labor or services (as defined by the Secretary of Labor), including agricultural labor (as defined in section 3121(g) of the Internal Revenue Code of 1986), agriculture (as defined in section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f))), and the pressing of apples for cider on a farm, of a temporary or seasonal nature;

''(b) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning;

''(bb) is coming temporarily to the United States to perform nonagricultural work or services of a temporary or seasonal nature (if unemployed persons capable of performing such work or services cannot be found in the United States), excluding medical school graduates coming to the United States to perform services as members of the medical profession; or

''(c) who—

''(aa) has a residence in a foreign country which the alien has no intention of abandoning;

''(bb) is coming temporarily to the United States to perform temporary labor or services other than the labor or services described in clause (i)(b), (i)(c), (ii)(a), or (iii), or subparagraph (L), (O), (P), or (R) (if unemployed persons capable of performing such labor or services cannot be found in the United States); and

''(cc) meets the requirements of section 218A, including the filing of a petition under such section on behalf of the alien;

''(iii) who—

''(a) has a residence in a foreign country which the alien has no intention of abandoning; and

''(b) is coming temporarily to the United States as a trainee (other than to receive graduate medical education or training) in a training program that is not designed primarily to provide productive employment; or

''(iv) who—

''(a) is the spouse or a minor child of an alien described in this subparagraph; and

''(b) is accompanying or following to join such alien.''.

(b) EFFECTIVE DATE AND APPLICATION.—The amendment made by subsection (a) shall take effect on the date that is 18 months after the date that not less than $400,000,000 have been appropriated and made available to the Secretary to implement the Electronic Employment Verification System established under 274A(d) of the Immigration and Nationality Act, as amended by section 301(a), with respect to aliens, who, on such effective date, are outside of the United States.

SEC. 403. ADMISSION OF NONIMMIGRANT TEMPORARY GUEST WORKERS.

(a) TEMPORARY GUEST WORKERS.—

(1) IN GENERAL.—Chapter 2 of title II (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

''SEC. 218A. ADMISSION OF H–2C NONIMMIGRANTS.

''(a) AUTHORIZATION.—The Secretary of State may grant a temporary visa to an H–2C nonimmigrant who demonstrates an intent to perform labor or services in the United States (other than the labor or services described in clause (i)(b) or (ii)(a) of section 101(a)(15)(H) or subparagraph (L), (O), (P), or (R)) of section 101(a)(15).

''(b) REQUIREMENTS FOR ADMISSION.—An alien shall be eligible for H–2C nonimmigrant status if the alien meets the following requirements:

''(1) ELIGIBILITY TO WORK.—The alien shall establish that the alien is capable of performing the labor or services required for an occupation under section 101(a)(15)(H)(ii)(c).

''(2) EVIDENCE OF EMPLOYMENT.—The alien shall establish that the alien has received a job offer from an employer who has complied with the requirements of 218B.

''(3) FEE.—The alien shall pay a $500 visa issuance fee in addition to the cost of processing and adjudicating such application. Nothing in this paragraph shall be construed to affect consular procedures for charging reciprocal fees.

''(4) MEDICAL EXAMINATION.—The alien shall undergo a medical examination (including a determination of immunization status), at the alien's expense, that conforms to generally accepted standards of medical practice.

''(5) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The alien shall submit to the Secretary a completed application, on a form designed by the Secretary of Homeland Security, including proof of evidence of the requirements under paragraphs (1) and (2).

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for H–2C nonimmigrant status, the Secretary shall require an alien to provide information concerning the alien's—

''(i) physical and mental health;

''(ii) criminal history and gang membership;

''(iii) immigration history; and

''(iv) involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government.

''(C) KNOWLEDGE.—The alien shall include with the application submitted under this paragraph a signed certification in which the alien certifies that—

''(i) the alien has read and understands all of the questions and statements on the application form;

''(ii) the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct; and

''(iii) the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) GROUNDS OF INADMISSIBILITY.—

''(1) IN GENERAL.—In determining an alien's admissibility as an H–2C nonimmigrant—

''(A) paragraphs (5), (6)(A), (7), (9)(B), and (9)(C) of section 212(a) may be waived for conduct that occurred before the effective date of the Comprehensive Immigration Reform Act of 2006;

''(B) the Secretary of Homeland Security may not waive the application of—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraph (A), (C) or (D) of section 212(a)(10) (relating to polygamists and child abductors); and

''(C) for conduct that occurred before the date of the enactment of the Comprehensive Immigration Reform Act of 2006, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien—

''(i) for humanitarian purposes;

''(ii) to ensure family unity; or

''(iii) if such a waiver is otherwise in the public interest.

''(2) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as an H–2C nonimmigrant shall establish that the alien is not inadmissible under section 212(a).

''(d) BACKGROUND CHECKS.—The Secretary of Homeland Security shall not admit, and the Secretary of State shall not issue a visa to, an alien seeking H–2C nonimmigrant status unless all appropriate background checks have been completed.

''(e) INELIGIBLE TO CHANGE NONIMMIGRANT CLASSIFICATION.—An H–2C nonimmigrant may not change nonimmigrant classification under section 248.

''(f) PERIOD OF AUTHORIZED ADMISSION.—

''(1) AUTHORIZED PERIOD AND RENEWAL.—The initial period of authorized admission as an H–2C nonimmigrant shall be 3 years, and the alien may seek 1 extension for an additional 3-year period.

''(2) INTERNATIONAL COMMUTERS.—An alien who resides outside the United States and commutes into the United States to work as an H–2C nonimmigrant, is not subject to the time limitations under paragraph (1).

''(3) LOSS OF EMPLOYMENT.—

''(A) IN GENERAL.—

''(i) PERIOD OF UNEMPLOYMENT.—Subject to clause (ii) and subsection (c), the period of authorized admission of an H–2C nonimmigrant shall terminate if the alien is unemployed for 60 or more consecutive days.

''(ii) EXCEPTION.—The period of authorized admission of an H–2C nonimmigrant shall not terminate if the alien is unemployed for 60 or more consecutive days if such unemployment is caused by—

''(I) a period of physical or mental disability of the alien or the spouse, son, daughter, or parent (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611)) of the alien;

''(II) a period of vacation, medical leave, maternity leave, or similar leave from employment authorized by employer policy, State law, or Federal law; or

''(III) any other period of temporary unemployment caused by circumstances beyond the control of the alien.

''(B) RETURN TO FOREIGN RESIDENCE.—Any alien whose period of authorized admission terminates under subparagraph (A) shall be required to leave the United States.

''(C) PERIOD OF VISA VALIDITY.—Any alien, whose period of authorized admission terminates under subparagraph (A), who leaves the United States under subparagraph (B), may reenter the United States as an H–2C nonimmigrant to work for an employer, if the alien has complied with the requirements of subsection (b). The Secretary may, in the Secretary's sole and unreviewable discretion, reauthorize such alien for admission as an H–2C nonimmigrant without requiring the alien's departure from the United States.

''(4) VISITS OUTSIDE UNITED STATES.—

''(A) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, an H–2C nonimmigrant—

''(i) may travel outside of the United States; and

''(ii) may be readmitted without having to obtain a new visa if the period of authorized admission has not expired.

''(B) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (A) shall not extend the period of authorized admission in the United States.

''(5) BARS TO EXTENSION OR ADMISSION.—An alien may not be granted H–2C nonimmigrant status, or an extension of such status, if—

''(A) the alien has violated any material term or condition of such status granted previously, including failure to comply with the change of address reporting requirements under section 265;

''(B) the alien is inadmissible as a nonimmigrant; or

''(C) the granting of such status or extension of such status would allow the alien to exceed 6 years as an H–2C nonimmigrant, unless the alien has resided and been physically present outside the United States for at least 1 year after the expiration of such H–2C nonimmigrant status.

''(g) EVIDENCE OF NONIMMIGRANT STATUS.—Each H–2C nonimmigrant shall be issued documentary evidence of nonimmigrant status, which—

''(1) shall be machine-readable, tamper-resistant, and allow for biometric authentication;

''(2) shall be designed in consultation with the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement;

''(3) shall, during the alien's authorized period of admission under subsection (f), serve as a valid entry document for the purpose of applying for admission to the United States—

''(A) instead of a passport and visa if the alien—

''(i) is a national of a foreign territory contiguous to the United States; and

''(ii) is applying for admission at a land border port of entry; and

''(B) in conjunction with a valid passport, if the alien is applying for admission at an air or sea port of entry;

''(4) may be accepted during the period of its validity by an employer as evidence of employment authorization and identity under section 274A(b)(1)(B); and

''(5) shall be issued to the H–2C nonimmigrant by the Secretary of Homeland Security promptly after the final adjudication of such alien's application for H–2C nonimmigrant status.

''(h) PENALTY FOR FAILURE TO DEPART.—If an H–2C nonimmigrant fails to depart the United States before the date which is 10 days after the date that the alien's authorized period of admission as an H–2C nonimmigrant terminates, the H–2C nonimmigrant may not apply for or receive any immigration relief or benefit under this Act or any other law, except for relief under sections 208 and 241(b)(3) and relief under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(i) PENALTY FOR ILLEGAL ENTRY OR OVERSTAY.—Any alien who enters, attempts to enter, or crosses the border after the date of the enactment of this section, and is physically present in the United States after such date in violation of this Act or of any other Federal law, may not receive, for a period of 10 years—

''(1) any relief under section 240A(a), 240A(b)(1), or 240B; or

''(2) nonimmigrant status under section 101(a)(15) (except subparagraphs (T) and (U)).

''(j) PORTABILITY.—A nonimmigrant alien described in this section, who was previously issued a visa or otherwise provided H–2C nonimmigrant status, may accept a new offer of employment with a subsequent employer, if—

''(1) the employer complies with section 218B; and

''(2) the alien, after lawful admission to the United States, did not work without authorization.

''(k) CHANGE OF ADDRESS.—An H–2C nonimmigrant shall comply with the change of address reporting requirements under section 265 through either electronic or paper notification.

''(l) COLLECTION OF FEES.—All fees collected under this section shall be deposited in the Treasury in accordance with section 286(c).

''(m) ISSUANCE OF H–4 NONIMMIGRANT VISAS FOR SPOUSE AND CHILDREN.—

''(1) IN GENERAL.—The alien spouse and children of an H–2C nonimmigrant (referred to in this section as 'dependent aliens') who are accompanying or following to join the H–2C nonimmigrant may be issued nonimmigrant visas under section 101(a)(15)(H)(iv).

''(2) REQUIREMENTS FOR ADMISSION.—A dependent alien is eligible for nonimmigrant status under 101(a)(15)(H)(iv) if the dependent alien meets the following requirements:

''(A) ELIGIBILITY.—The dependent alien is admissible as a nonimmigrant and does not fall within a class of aliens ineligible for H–4A nonimmigrant status listed under subsection (c).

''(B) MEDICAL EXAMINATION.—Before a nonimmigrant visa is issued to a dependent alien under this subsection, the dependent alien shall submit to a medical examination (including a determination of immunization status) at the alien's expense, that conforms to generally accepted standards of medical practice.

''(C) BACKGROUND CHECKS.—Before a nonimmigrant visa is issued to a dependent alien under this section, the consular officer shall conduct such background checks as the Secretary of State, in consultation with the Secretary of Homeland Security, considers appropriate.

''(n) DEFINITIONS.—In this section and sections 218B, 218C, and 218D:

''(1) AGGRIEVED PERSON.—term 'aggrieved person' means a person adversely affected by an alleged violation of this section, including—

''(A) a worker whose job, wages, or working conditions are adversely affected by the violation; and

''(B) a representative for workers whose jobs, wages, or working conditions are adversely affected by the violation who brings a complaint on behalf of such worker.

''(2) AREA OF EMPLOYMENT.—The terms 'area of employment' and 'area of intended employment' mean the area within normal commuting distance of the worksite or physical location at which the work of the temporary worker is or will be performed. If such worksite or location is within a Metropolitan Statistical Area, any place within such area is deemed to be within the area of employment.

''(3) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A) with respect to that employment.

''(4) EMPLOY; EMPLOYEE; EMPLOYER.—The terms 'employ', 'employee', and 'employer' have the meanings given such terms in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

''(5) FOREIGN LABOR CONTRACTOR.—The term 'foreign labor contractor' means any person who for any compensation or other valuable consideration paid or promised to be paid, performs any foreign labor contracting activity.

''(6) FOREIGN LABOR CONTRACTING ACTIVITY.—The term 'foreign labor contracting activity' means recruiting, soliciting, hiring, employing, or furnishing, an individual who resides outside of the United States for employment in the United States as a nonimmigrant alien described in section 101(a)(15)(H)(ii)(c).

''(7) H–2C NONIMMIGRANT.—The term 'H–2C nonimmigrant' means a nonimmigrant described in section 101(a)(15)(H)(ii)(c).

''(8) SEPARATION FROM EMPLOYMENT.—The term 'separation from employment' means the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, or the expiration of a grant or contract. The term does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether the employee accepts the offer. Nothing in this paragraph shall limit an employee's rights under a collective bargaining agreement or other employment contract.

''(9) UNITED STATES WORKER.—The term 'United States worker' means an employee who is—

''(A) a citizen or national of the United States; or

''(B) an alien who is—

''(i) lawfully admitted for permanent residence;

''(ii) admitted as a refugee under section 207;

''(iii) granted asylum under section 208; or

''(iv) otherwise authorized, under this Act or by the Secretary of Homeland Security, to be employed in the United States.''.

(2) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218 the following:

''Sec. 218A. Admission of temporary H–2C workers''.

SEC. 404. EMPLOYER OBLIGATIONS.

(a) IN GENERAL.—Title II (8 U.S.C. 1201 et seq.) is amended by inserting after section 218A, as added by section 403, the following:

"SEC. 218B. EMPLOYER OBLIGATIONS.

''(a) GENERAL REQUIREMENTS.—Each employer who employs an H–2C nonimmigrant shall—

''(1) file a petition in accordance with subsection (b); and

''(2) pay the appropriate fee, as determined by the Secretary of Labor.

''(b) REQUIRED PROCEDURE.—Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment to which the H–2C nonimmigrant is sought—

''(1) EFFORTS TO RECRUIT UNITED STATES WORKERS.—During the period beginning not later than 90 days prior to the date on which a petition is filed under subsection (a)(1), and ending on the date that is 14 days prior to the date on which the petition is filed, the employer involved shall take the following steps to recruit United States workers for the position for which the H–2C nonimmigrant is sought under the petition:

''(A) Submit a copy of the job opportunity, including a description of the wages and other terms and conditions of employment and the minimum education, training, experience and other requirements of the job, to the State Employment Service Agency that serves the area of employment in the State in which the employer is located.

''(B) Authorize the State Employment Service Agency to post the job opportunity on the Internet through the website for America's Job Bank, with local job banks, and with unemployment agencies and other labor referral and recruitment sources pertinent to the job involved.

''(C) Authorize the State Employment Service Agency to notify labor organizations in the State in which the job is located, and if applicable, the office of the local union which represents the employees in the same or substantially equivalent job classification of the job opportunity.

''(D) Post the availability of the job opportunity for which the employer is seeking a worker in conspicuous locations at the place of employment for all employees to see.

''(2) EFFORTS TO EMPLOY UNITED STATES WORKERS.—An employer that seeks to employ an H–2C nonimmigrant shall—

''(A) first offer the job to any eligible United States worker who applies, is qualified for the job and is available at the time of need, notwithstanding any other valid employment criteria.

''(c) PETITION.—A petition to hire an H–2C nonimmigrant under this section shall include an attestation by the employer of the following:

''(1) PROTECTION OF UNITED STATES WORKERS.—The employment of an H–2C nonimmigrant—

''(A) will not adversely affect the wages and working conditions of workers in the United States similarly employed; and

''(B) did not and will not cause the separation from employment of a United States worker employed by the employer within the 180-day period beginning 90 days before the date on which the petition is filed.

''(2) WAGES.—

''(A) IN GENERAL.—The H–2C nonimmigrant will be paid not less than the greater of—

''(i) the actual wage level paid by the employer to all other individuals with similar experience and qualifications for the specific employment in question; or

''(ii) the prevailing wage level for the occupational classification in the area of employment, taking into account experience and skill levels of employees.

''(B) CALCULATION.—The wage levels under subparagraph (A) shall be calculated based on the best information available at the time of the filing of the application.

''(C) PREVAILING WAGE LEVEL.—For purposes of subparagraph (A)(ii), the prevailing wage level shall be determined in accordance as follows:

''(i) If the job opportunity is covered by a collective bargaining agreement between a union and the employer, the prevailing wage shall be the wage rate set forth in the collective bargaining agreement.

''(ii) If the job opportunity is not covered by such an agreement and it is in an occupation that is covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be the appropriate statutory wage.

''(iii)(I) If the job opportunity is not covered by such an agreement and it is in an occupation that is not covered by a wage determination under a provision of subchapter IV of chapter 31 of title 40, United States Code, or the Service Contract Act of 1965 (41 U.S.C. 351 et seq.), the prevailing wage level shall be based on published wage data for the occupation from the Bureau of Labor Statistics, including the Occupational Employment Statistics survey, Current Employment Statistics data, National Compensation Survey, and Occupational Employment Projections program. If the Bureau of Labor Statistics does not have wage data applicable to such occupation, the employer may base the prevailing wage level on another wage survey approved by the Secretary of Labor.

''(II) The Secretary shall promulgate regulations applicable to approval of such other wage surveys that require, among other things, that the Bureau of Labor Statistics determine such surveys are statistically viable.

''(3) WORKING CONDITIONS.—All workers in the occupation at the place of employment at which the H–2C nonimmigrant will be employed will be provided the working conditions and benefits that are normal to workers similarly employed in the area of intended employment.

''(4) LABOR DISPUTE.—There is not a strike, lockout, or work stoppage in the course of a labor dispute in the occupation at the place of employment at which the H–2C nonimmigrant will be employed. If such strike, lockout, or work stoppage occurs following submission of the petition, the employer will provide notification in accordance with regulations promulgated by the Secretary of Labor.

''(5) PROVISION OF INSURANCE.—If the position for which the H–2C nonimmigrant is sought is not covered by the State workers' compensation law, the employer will provide, at no cost to the H–2C nonimmigrant, insurance covering injury and disease arising out of, and in the course of, the worker's employment, which will provide benefits at least equal to those provided under the State workers' compensation law for comparable employment.

''(6) NOTICE TO EMPLOYEES.—

''(A) IN GENERAL.—The employer has provided notice of the filing of the petition to the bargaining representative of the employer's employees in the occupational classification and area of employment for which the H–2C nonimmigrant is sought.

''(B) NO BARGAINING REPRESENTATIVE.—If there is no such bargaining representative, the employer has—

''(i) posted a notice of the filing of the petition in a conspicuous location at the place or places of employment for which the H–2C nonimmigrant is sought; or

''(ii) electronically disseminated such a notice to the employer's employees in the occupational classification for which the H–2C nonimmigrant is sought.

''(7) RECRUITMENT.—Except where the Secretary of Labor has determined that there is a shortage of United States workers in the occupation and area of intended employment for which the H–2C nonimmigrant is sought—

''(A) there are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services involved in the petition; and

''(B) good faith efforts have been taken to recruit United States workers, in accordance with regulations promulgated by the Secretary of Labor, which efforts included—

''(i) the completion of recruitment during the period beginning on the date that is 90 days before the date on which the petition was filed with the Department of Homeland Security and ending on the date that is 14 days before such filing date; and

''(ii) the actual wage paid by the employer for the occupation in the areas of intended employment was used in conducting recruitment.

''(8) INELIGIBILITY.—The employer is not currently ineligible from using the H–2C nonimmigrant program described in this section.

''(9) BONAFIDE OFFER OF EMPLOYMENT.—The job for which the H–2C nonimmigrant is sought is a bona fide job—

''(A) for which the employer needs labor or services;

''(B) which has been and is clearly open to any United States worker; and

''(C) for which the employer will be able to place the H–2C nonimmigrant on the payroll.

''(10) PUBLIC AVAILABILITY AND RECORDS RETENTION.—A copy of each petition filed under this section and documentation supporting each attestation, in accordance with regulations promulgated by the Secretary of Labor, will—

''(A) be provided to every H–2C nonimmigrant employed under the petition;

''(B) be made available for public examination at the employer's place of business or work site;

''(C) be made available to the Secretary of Labor during any audit; and

''(D) remain available for examination for 5 years after the date on which the petition is filed.

''(11) NOTIFICATION UPON SEPARATION FROM OR TRANSFER OF EMPLOYMENT.—The employer will notify the Secretary of Labor and the Secretary of Homeland Security of an H–2C nonimmigrant's separation from employment or transfer to another employer not more than 3 business days after the date of such separation or transfer, in accordance with regulations promulgated by the Secretary of Homeland Security.

''(12) ACTUAL NEED FOR LABOR OR SERVICES.—The petition was filed not more than 60 days before the date on which the employer needed labor or services for which the H–2C nonimmigrant is sought.

''(d) AUDIT OF ATTESTATIONS.—

''(1) REFERRALS BY SECRETARY OF HOMELAND SECURITY.—The Secretary of Homeland Security shall refer all approved petitions for H–2C nonimmigrants to the Secretary of Labor for potential audit.

''(2) AUDITS AUTHORIZED.—The Secretary of Labor may audit any approved petition referred pursuant to paragraph (1), in accordance with regulations promulgated by the Secretary of Labor.

''(e) INELIGIBLE EMPLOYERS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall not approve an employer's petitions, applications, certifications, or attestations under any immigrant or nonimmigrant program if the Secretary of

Labor determines, after notice and an opportunity for a hearing, that the employer submitting such documents—

''(A) has, with respect to the attestations required under subsection (b)—

''(i) misrepresented a material fact;

''(ii) made a fraudulent statement; or

''(iii) failed to comply with the terms of such attestations; or

''(B) failed to cooperate in the audit process in accordance with regulations promulgated by the Secretary of Labor.

''(2) LENGTH OF INELIGIBILITY.—An employer described in paragraph (1) shall be ineligible to participate in the labor certification programs of the Secretary of Labor for not less than the time period determined by the Secretary, not to exceed 3 years.

''(3) EMPLOYERS IN HIGH UNEMPLOYMENT AREAS.—Beginning on the date that is 1 year after the date of the enactment of the Initial Entry, Adjustment, and Citizenship Assistance Grant Act of 2006, the Secretary of Homeland Security may not approve any employer's petition under subsection (b) if the work to be performed by the H–2C nonimmigrant is not agriculture based and is located in a metropolitan or micropolitan statistical area (as defined by the Office of Management and Budget) in which the unemployment rate for workers who have not completed any education beyond a high school diploma during the most recently completed 6-month period averaged more than 9.0 percent.

''(f) REGULATION OF FOREIGN LABOR CONTRACTORS.—

''(1) COVERAGE.—Notwithstanding any other provision of law, an H–2C nonimmigrant may not be treated as an independent contractor.

''(2) APPLICABILITY OF LAWS.—An H–2C nonimmigrant shall not be denied any right or any remedy under Federal, State, or local labor or employment law that would be applicable to a United States worker employed in a similar position with the employer because of the alien's status as a nonimmigrant worker.

''(3) TAX RESPONSIBILITIES.—With respect to each employed H–2C nonimmigrant, an employer shall comply with all applicable Federal, State, and local tax and revenue laws.

''(g) WHISTLEBLOWER PROTECTION.—It shall be unlawful for an employer or a labor contractor of an H–2C nonimmigrant to intimidate, threaten, restrain, coerce, retaliate, discharge, or in any other manner, discriminate against an employee or former employee because the employee or former employee—

''(1) discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of this Act; or

''(2) cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of this Act.

''(h) LABOR RECRUITERS.—

''(1) IN GENERAL.—Each employer that engages in foreign labor contracting activity and each foreign labor contractor shall ascertain and disclose, to each such worker who is recruited for employment at the time of the worker's recruitment—

''(A) the place of employment;

''(B) the compensation for the employment;

''(C) a description of employment activities;

''(D) the period of employment;

''(E) any other employee benefit to be provided and any costs to be charged for each benefit;

''(F) any travel or transportation expenses to be assessed;

''(G) the existence of any labor organizing effort, strike, lockout, or other labor dispute at the place of employment;

''(H) the existence of any arrangement with any owner, employer, foreign contractor, or its agent where such person receives a commission from the provision of items or services to workers;

''(I) the extent to which workers will be compensated through workers' compensation, private insurance, or otherwise for injuries or death, including—

''(i) work related injuries and death during the period of employment;

''(ii) the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance;

''(iii) the name and the telephone number of each person who must be notified of an injury or death; and

''(iv) the time period within which such notice must be given;

''(J) any education or training to be provided or required, including—

''(i) the nature and cost of such training;

''(ii) the entity that will pay such costs; and

''(iii) whether the training is a condition of employment, continued employment, or future employment; and

''(K) a statement, in a form specified by the Secretary of Labor, describing the protections of this Act for workers recruited abroad.

''(2) FALSE OR MISLEADING INFORMATION.—No foreign labor contractor or employer who engages in foreign labor contracting activity shall knowingly provide material false or misleading information to any worker concerning any matter required to be disclosed in paragraph (1).

''(3) LANGUAGES.—The information required to be disclosed under paragraph (1) shall be provided in writing in English or, as necessary and reasonable, in the language of the worker being recruited. The Secretary of Labor shall make forms available in English, Spanish, and other languages, as necessary, which may be used in providing workers with information required under this section.

''(4) FEES.—A person conducting a foreign labor contracting activity shall not assess any fee to a worker for such foreign labor contracting activity.

''(5) TERMS.—No employer or foreign labor contractor shall, without justification, violate the terms of any agreement made by that contractor or employer regarding employment under this program.

''(6) TRAVEL COSTS.—If the foreign labor contractor or employer charges the employee for transportation such transportation costs shall be reasonable.

''(7) OTHER WORKER PROTECTIONS.—

''(A) NOTIFICATION.—Not less frequently than once every 2 years, each employer shall notify the Secretary of Labor of the identity of any foreign labor contractor engaged by the employer in any foreign labor contractor activity for, or on behalf of, the employer.

''(B) REGISTRATION OF FOREIGN LABOR CONTRACTORS.—

''(i) IN GENERAL.—No person shall engage in foreign labor recruiting activity unless such person has a certificate of registration from the Secretary of Labor specifying the activities that such person is authorized to perform. An employer who retains the services of a foreign labor contractor shall only use those foreign labor contractors who are registered under this subparagraph.

''(ii) ISSUANCE.—The Secretary shall promulgate regulations to establish an efficient electronic process for the investigation and approval of an application for a certificate of registration of foreign labor contractors not later than 14 days after such application is filed, including—

''(I) requirements under paragraphs (1), (4), and (5) of section 102 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1812);

''(II) an expeditious means to update registrations and renew certificates; and

''(III) any other requirements that the Secretary may prescribe.

''(iii) TERM.—Unless suspended or revoked, a certificate under this subparagraph shall be valid for 2 years.

''(iv) REFUSAL TO ISSUE; REVOCATION; SUSPENSION.—In accordance with regulations promulgated by the Secretary of Labor, the Secretary may refuse to issue or renew, or may suspend or revoke, a certificate of registration under this subparagraph if—

''(I) the application or holder of the certification has knowingly made a material misrepresentation in the application for such certificate;

''(II) the applicant for, or holder of, the certification is not the real party in interest in the application or certificate of registration and the real party in interest—

''(aa) is a person who has been refused issuance or renewal of a certificate;

''(bb) has had a certificate suspended or revoked; or

''(cc) does not qualify for a certificate under this paragraph; or

''(III) the applicant for or holder of the certification has failed to comply with this Act.

''(C) REMEDY FOR VIOLATIONS.—An employer engaging in foreign labor contracting activity and a foreign labor contractor that violates the provisions of this subsection shall be subject to remedies for foreign labor contractor violations under subsections (h) and (i). If a foreign labor contractor acting as an agent of an employer violates any provision of this subsection, the employer shall also be subject to remedies under subsections (h) and (i). An employer that violates a provision of this subsection relating to employer obligations shall be subject to remedies under subsections (h) and (i).

''(D) EMPLOYER NOTIFICATION.—An employer shall notify the Secretary of Labor if the employer becomes aware of a violation of this subsection by a foreign labor recruiter.

''(E) WRITTEN AGREEMENTS.—A foreign labor contractor may not violate the terms of any written agreements made with an employer relating to any contracting activity or worker protection under this subsection.

''(F) BONDING REQUIREMENT.—The Secretary of Labor may require a foreign labor contractor to post a bond in an amount sufficient to ensure the protection of individuals recruited by the foreign labor contractor. The Secretary may consider the extent to which the foreign labor contractor has sufficient ties to the United States to adequately enforce this subsection.

''(i) ENFORCEMENT.—

''(1) IN GENERAL.—The Secretary of Labor shall promulgate regulations for the receipt, investigation, and disposition of complaints by an aggrieved person respecting a violation of this section.

''(2) FILING DEADLINE.—No investigation or hearing shall be conducted on a complaint concerning a violation under this section unless the complaint was filed not later than 12 months after the date of such violation.

''(3) REASONABLE CAUSE.—The Secretary of Labor shall conduct an investigation under this subsection if there is reasonable cause to believe that a violation of this section has occurred. The process established under this subsection shall provide that, not later than 30 days after a complaint is filed, the Secretary shall determine if there is reasonable cause to find such a violation.

''(4) NOTICE AND HEARING.—

''(A) IN GENERAL.—Not later than 60 days after the Secretary of Labor makes a determination of reasonable cause under paragraph (4), the Secretary shall issue a notice to the interested parties and offer an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code.

''(B) COMPLAINT.—If the Secretary of Labor, after receiving a complaint under this subsection, does not offer the aggrieved party or organization an opportunity for a hearing under subparagraph (A), the Secretary shall notify the aggrieved party or organization of such determination and the aggrieved party or organization may seek a hearing on the complaint in accordance with such section 556.

''(C) HEARING DEADLINE.—Not later than 60 days after the date of a hearing under this paragraph, the Secretary of Labor shall make a finding on the matter in accordance with paragraph (5).

''(5) ATTORNEYS' FEES.—A complainant who prevails with respect to a claim under this subsection shall be entitled to an award of reasonable attorneys' fees and costs.

''(6) POWER OF THE SECRETARY.—The Secretary may bring an action in any court of competent jurisdiction—

''(A) to seek remedial action, including injunctive relief;

''(B) to recover the damages described in subsection (i); or

''(C) to ensure compliance with terms and conditions described in subsection (g).

''(7) SOLICITOR OF LABOR.—Except as provided in section 518(a) of title 28, United States Code, the Solicitor of Labor may appear for and represent the Secretary of Labor in any civil litigation brought under this subsection. All such litigation shall be subject to the direction and control of the Attorney General.

''(8) PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.—The rights and remedies provided to workers under this section are in addition to any other contractual or statutory rights and remedies of the workers, and are not intended to alter or affect such rights and remedies.

''(j) PENALTIES.—

''(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary of Labor finds a violation of subsection (b), (e), (f), or (g), the Secretary may impose administrative remedies and penalties, including—

''(A) back wages;

''(B) benefits; and

''(C) civil monetary penalties.

''(2) CIVIL PENALTIES.—The Secretary of Labor may impose, as a civil penalty—

''(A) for a violation of subsection (e) or (f)—

''(i) a fine in an amount not to exceed $2,000 per violation per affected worker;

''(ii) if the violation was willful violation, a fine in an amount not to exceed $5,000 per violation per affected worker;

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not to exceed $25,000 per violation per affected worker; and

''(B) for a violation of subsection (g)—

''(i) a fine in an amount not less than $500 and not more than $4,000 per violation per affected worker;

''(ii) if the violation was willful, a fine in an amount not less than $2,000 and not more than $5,000 per violation per affected worker; and

''(iii) if the violation was willful and if in the course of such violation a United States worker was harmed, a fine in an amount not less than $6,000 and not more than $35,000 per violation per affected worker.

''(3) USE OF CIVIL PENALTIES.—All penalties collected under this subsection shall be deposited in the Treasury in accordance with section 286(w).

''(4) CRIMINAL PENALTIES.—If a willful and knowing violation of subsection (g) causes extreme physical or financial harm to an individual, the person in violation of such subsection may be imprisoned for not more than 6 months, fined in an amount not more than $35,000, or both.''.

(b) CLERICAL AMENDMENT.—The table of contents is amended by inserting after the item relating to section 218A, as added by section 403, the following:

''Sec. 218B. Employer obligations''.

SEC. 405. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 218B, as added by section 404, the following:

''SEC. 218C. ALIEN EMPLOYMENT MANAGEMENT SYSTEM.

''(a) ESTABLISHMENT.—The Secretary of Homeland Security, in consultation with the Secretary of Labor, the Secretary of State, and the Commission of Social Security, shall develop and implement a program (referred to in this section as the 'alien employment management system') to manage and track the employment of aliens described in sections 218A and 218D.

''(b) REQUIREMENTS.—The alien employment management system shall—

''(1) provide employers who seek employees with an opportunity to recruit and advertise employment opportunities available to United States workers before hiring an H–2C nonimmigrant;

''(2) collect sufficient information from employers to enable the Secretary of Homeland Security to determine—

''(A) if the nonimmigrant is employed;

''(B) which employers have hired an H–2C nonimmigrant;

''(C) the number of H–2C nonimmigrants that an employer is authorized to hire and is currently employing;

''(D) the occupation, industry, and length of time that an H–2C nonimmigrant has been employed in the United States;

''(3) allow employers to request approval of multiple H–2C nonimmigrant workers; and

''(4) permit employers to submit applications under this section in an electronic form.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 218B, as added by section 404, the following:

''Sec. 218C. Alien employment management system''.

SEC. 406. RULEMAKING; EFFECTIVE DATE.

(a) RULEMAKING.—Not later than 6 months after the date of enactment of this Act, the Secretary of Labor shall promulgate regulations, in accordance with the notice and comment provisions of section 553 of title 5, United States Code, to carry out the provisions of sections 218A, 218B, and 218C, as added by this Act.

(b) EFFECTIVE DATE.—The amendments made by sections 403, 404, and 405 shall take effect on the date that is 1 year after the date of the enactment of this Act with regard to aliens, who, on such effective date, are in the foreign country where they maintain residence.

SEC. 407. RECRUITMENT OF UNITED STATES WORKERS.

(a) ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall establish a publicly accessible Web page on the Internet website of the Department of Labor that provides a single Internet link to each State workforce agency's statewide electronic registry of jobs available throughout the United States to United States workers.

(b) RECRUITMENT OF UNITED STATES WORKERS.—

(1) POSTING.—An employer shall attest that the employer has posted an employment opportunity at a prevailing wage level (as described in section 218B(b)(2)(C) of the Immigration and Nationality Act).

(2) RECORDS.—An employer shall maintain records for not less than 1 year after the date on which an H–2C nonimmigrant is hired that describe the reasons for not hiring any of the United States workers who may have applied for such position.

(c) OVERSIGHT AND MAINTENANCE OF RECORDS.—The Secretary of Labor shall promulgate regulations regarding the maintenance of electronic job registry records for the purpose of audit or investigation.

(d) ACCESS TO ELECTRONIC JOB REGISTRY.—The Secretary of Labor shall ensure that job opportunities advertised on an electronic job registry established under this section are accessible—

(1) by the State workforce agencies, which may further disseminate job opportunity information to other interested parties; and

(2) through the Internet, for access by workers, employers, labor organizations, and other interested parties.

SEC. 408. TEMPORARY GUEST WORKER VISA PROGRAM TASK FORCE.

(a) ESTABLISHMENT.—There is established a task force to be known as the ''Temporary Worker Task Force'' (referred to in this section as the ''Task Force'').

(b) PURPOSES.—The purposes of the Task Force are—

(1) to study the impact of the admission of aliens under section 101(a)(15)(ii)(c) on the wages, working conditions, and employment of United States workers; and

(2) to make recommendations to the Secretary of Labor regarding the need for an annual numerical limitation on the number of aliens that may be admitted in any fiscal year under section 101(a)(15)(ii)(c).

(c) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall be composed of 10 members, of whom—

(A) 1 shall be appointed by the President and shall serve as chairman of the Task Force;

(B) 1 shall be appointed by the leader of the minority party in the Senate, in consultation with the leader of the minority party in the House of Representatives, and shall serve as vice chairman of the Task Force;

(C) 2 shall be appointed by the majority leader of the Senate;

(D) 2 shall be appointed by the minority leader of the Senate;

(E) 2 shall be appointed by the Speaker of the House of Representatives; and

(F) 2 shall be appointed by the minority leader of the House of Representatives.

(2) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Task Force shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) QUORUM.—Six members of the Task Force shall constitute a quorum.

(d) QUALIFICATIONS.—

(1) IN GENERAL.—Members of the Task Force shall be—

(A) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(B) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia.

(2) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(3) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Task Force may not be an officer or employee of the Federal Government or of any State or local government.

(e) MEETINGS.—

(1) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(2) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(f) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Task Force shall submit, to Congress, the Secretary of Labor, and the Secretary, a report that contains—

(1) findings with respect to the duties of the Task Force; and

(2) recommendations for imposing a numerical limit.

(g) NUMERICAL LIMITATIONS.—Section 214(g)(1) (8 U.S.C. 1184(g)(1)) is amended—

(1) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(C) under section 101(a)(15)(H)(ii)(c) may not exceed 200,000.''.

(h) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.—Section 245 (8 U.S.C. 1255) is amended by adding at the end the following:

''(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available, subject to the numerical limitations set out in sections 201(d) and 203(b), to an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) upon the filing of a petition for such a visa—

''(A) by the alien's employer; or

''(B) by the alien, if—

''(i) the alien has been employed in H–2C status for a cumulative period of not less than 4 years;

''(ii) an employer attests that the employer will employ the alien in the offered job position;

''(iii) the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the job position; or

''(iv) the Secretary of Labor determines and certifies that there are not sufficient United States workers who are able, willing, qualified, and available to fill the position in which the alien is, or will be, employed; and

''(v) the alien submits at least 2 documents to establish current employment, as follows:

''(I) Records maintained by the Social Security Administration.

''(II) Records maintained by the alien's employer, such as pay stubs, time sheets, or employment work verification.

''(III) Records maintained by the Internal Revenue Service.

''(IV) Records maintained by any other government agency, such as worker compensation records, disability records, or business licensing records.

''(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) may not apply for adjustment of status under this section unless the alien—

''(A) is physically present in the United States; and

''(B) establishes that the alien meets the requirements of section 312.

''(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(c).

''(5) The Secretary of Homeland Security shall extend, in 1-year increments, the stay of an alien for whom a labor certification petition filed under section 203(b) or an immigrant visa petition filed under section 204(b) is pending until a final decision is made on the alien's lawful permanent residence.

''(6) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(ii)(c) from filing an application for adjustment of status under this section in accordance with any other provision of law.''.

SEC. 409. REQUIREMENTS FOR PARTICIPATING COUNTRIES.

(a) IN GENERAL.—The Secretary of State, in cooperation with the Secretary and the Attorney General, shall negotiate with each home country of aliens described in section 101(a)(15)(H)(ii)(c) of the Immigration and Nationality Act, as added by section 402, to enter into a bilateral agreement with the United States that conforms to the requirements under subsection (b).

(b) REQUIREMENTS OF BILATERAL AGREEMENTS.—Each agreement negotiated under subsection (a) shall require the participating home country to—

(1) accept the return of nationals who are ordered removed from the United States within 3 days of such removal;

(2) cooperate with the United States Government to—

(A) identify, track, and reduce gang membership, violence, and human trafficking and smuggling; and

(B) control illegal immigration;

(3) provide the United States Government with—

(A) passport information and criminal records of aliens who are seeking admission to, or are present in, the United States; and

(B) admission and entry data to facilitate United States entry-exit data systems; and

(4) educate nationals of the home country regarding United States temporary worker programs to ensure that such nationals are not exploited; and

(5) evaluate means to provide housing incentives in the alien's home country for returning workers.

SEC. 410. S VISAS.

(a) EXPANSION OF S VISA CLASSIFICATION.—Section 101(a)(15)(S) (8 U.S.C. 1101(a)(15)(S)) is amended—

(1) in clause (i)—

(A) by striking ''Attorney General'' each place that term appears and inserting ''Secretary of Homeland Security'';

(B) in subclause (I), by inserting before the semicolon, '', including a criminal enterprise undertaken by a foreign government, its agents, representatives, or officials'';

(C) in subclause (III), by inserting ''where the information concerns a criminal enterprise undertaken by an individual or organization that is not a foreign government, its agents, representatives, or officials,'' before ''whose''; and

(D) by striking ''or'' at the end; and

(2) in clause (ii)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by striking ''1956,'' and all that follows through ''the alien;'' and inserting the following: ''1956; or

''(iii) who the Secretary of Homeland Security and the Secretary of State, in consultation with the Director of Central Intelligence, jointly determine—

''(I) is in possession of critical reliable information concerning the activities of governments or organizations, or their agents, representatives, or officials, with respect to weapons of mass destruction and related delivery systems, if such governments or organizations are at risk of developing, selling, or transferring such weapons or related delivery systems; and

''(II) is willing to supply or has supplied, fully and in good faith, information described in subclause (I) to appropriate persons within the United States Government;

''and, if the Secretary of Homeland Security (or with respect to clause (ii), the Secretary of State and the Secretary of Homeland Security jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i), (ii), or (iii) if accompanying, or following to join, the alien;''.

(b) NUMERICAL LIMITATION.—Section 214(k)(1) (8 U.S.C. 1184(k)(1)) is amended by striking ''The number of aliens'' and all that follows through the period and inserting the following: ''The number of aliens who may be provided a visa as nonimmigrants under section 101(a)(15)(S) in any fiscal year may not exceed 1,000.''.

(c) REPORTS.—

(1) CONTENT.—Paragraph (4) of section 214(k) (8 U.S.C. 1184(k)) is amended—

(A) in the matter preceding subparagraph (A)

(i) by striking ''The Attorney General'' and inserting ''The Secretary of Homeland Security''; and

(ii) by striking ''concerning—'' and inserting ''that includes—'';

(B) in subparagraph (D), by striking ''and'';

(C) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(D) by inserting at the end the following:

''(F) in the event that the total number of such nonimmigrants admitted is fewer than 25 percent of the total number provided for under paragraph (1) of this subsection—

''(i) the reasons why the number of such nonimmigrants admitted is fewer than 25 percent of that provided for by law;

''(ii) the efforts made by the Secretary of Homeland Security to admit such nonimmigrants; and

''(iii) any extenuating circumstances that contributed to the admission of a number of such nonimmigrants that is fewer than 25 percent of that provided for by law.''.

(2) FORM OF REPORT.—Section 214(k) (8 U.S.C. 1184(k)) is amended by adding at the end the following new paragraph:

''(5) To the extent required by law and if it is in the interests of national security or the security of such nonimmigrants that are admitted, as determined by the Secretary of Homeland Security, the information contained in a report described in paragraph (4) may be classified, and the Secretary of Homeland Security shall, to the extent feasible, submit a non-classified version of the report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate.''.

SEC. 411. L VISA LIMITATIONS.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subparagraph (E), by striking ''In the case'' and inserting ''Except as provided in subparagraph (H), in the case''; and

(3) by adding at the end the following:

''(G)(i) If the beneficiary of a petition under this subsection is coming to the United States to open, or be employed in, a new facility, the petition may be approved for a period not to exceed 12 months only if

the employer operating the new facility has—

''(I) a business plan;

''(II) sufficient physical premises to carry out the proposed business activities; and

''(III) the financial ability to commence doing business immediately upon the approval of the petition.

''(ii) An extension of the approval period under clause (i) may not be granted until the importing employer submits to the Secretary of Homeland Security—

''(I) evidence that the importing employer meets the requirements of this subsection;

''(II) evidence that the beneficiary meets the requirements of section 101(a)(15)(L);

''(III) a statement summarizing the original petition;

''(IV) evidence that the importing employer has fully complied with the business plan submitted under clause (i);

''(V) evidence of the truthfulness of any representations made in connection with the filing of the original petition;

''(VI) evidence that the importing employer, during the previous 12 months, has been doing business at the new facility through regular, systematic, and continuous provision of goods or services, or has otherwise been taking commercially reasonable steps to establish the new facility as a commercial enterprise;

''(VII) a statement of the duties the beneficiary has performed at the new facility during the previous 12 months and the duties the beneficiary will perform at the new facility during the extension period approved under this clause;

''(VIII) a statement describing the staffing at the new facility, including the number of employees and the types of positions held by such employees;

''(IX) evidence of wages paid to employees if the beneficiary will be employed in a managerial or executive capacity;

''(X) evidence of the financial status of the new facility; and

''(XI) any other evidence or data prescribed by the Secretary.

''(iii) Notwithstanding subclauses (I) through (VI) of clause (ii) and subject to the maximum period of authorized admission set forth in subparagraph (D), the Secretary of Homeland Security may approve a subsequently filed petition on behalf of the beneficiary to continue employment at the facility described in this subsection for a period beyond the initially granted 12-month period if the importing employer demonstrates that the failure to satisfy any of the requirements described in those subclauses was directly caused by extraordinary circumstances beyond the control of the importing employer.

''(H)(i) The Secretary of Homeland Security may not authorize the spouse of an alien described under section 101(a)(15)(L), who is a dependent of a beneficiary under subparagraph (G), to engage in employment in the United States during the initial 9-month period described in subparagraph (G)(i).

''(ii) A spouse described in clause (i) may be provided employment authorization upon the approval of an extension under subparagraph (G)(ii).

''(I) For purposes of determining the eligibility of an alien for classification under Section 101(a)(15)(L) of this Act, the Secretary of Homeland Security shall establish a program to work cooperatively with the Department of State to verify a company or facility's existence in the United States and abroad.''.

SEC. 412. COMPLIANCE INVESTIGATORS.

The Secretary of Labor shall, subject to the availability of appropriations for such purpose, annually increase, by not less than 2,000, the number of positions for compliance investigators dedicated to enforcing compliance with this title, and the amendments made by this title.

SEC. 413. VISA WAIVER PROGRAM EXPANSION.

Section 217(c) (8 U.S.C. 1187(c)) is amended by adding at the end the following:

''(8) PROBATIONARY ADMISSION.—

''(A) DEFINITION OF MATERIAL SUPPORT.—In this paragraph, the term 'material support' means the current provision of the equivalent of, but not less than, a battalion (which consists of 300 to 1,000 military personnel) to Operation Iraqi Freedom or Operation Enduring Freedom to provide training, logistical or tactical support, or a military presence.

''(B) DESIGNATION AS A PROGRAM COUNTRY.—Notwithstanding any other provision of this section, a country may be designated as a program country, on a probationary basis, under this section if—

''(i) the country is a member of the European Union;

''(ii) the country is providing material support to the United States or the multilateral forces in Afghanistan or Iraq, as determined by the Secretary of Defense, in consultation with the Secretary of State; and

''(iii) the Secretary of Homeland Security, in consultation with the Secretary of State, determines that participation of the country in the visa waiver program under this section does not compromise the law enforcement interests of the United States.

''(C) REFUSAL RATES; OVERSTAY RATES.—The determination under subparagraph (B)(iii) shall only take into account any refusal rates or overstay rates after the expiration of the first full year of the country's admission into the European Union.

''(D) FULL COMPLIANCE.—Not later than 2 years after the date of a country's designation under subparagraph (B), the country—

''(i) shall be in full compliance with all applicable requirements for program country status under this section; or

''(ii) shall have its program country designation terminated.

''(E) EXTENSIONS.—The Secretary of State may extend, for a period not to exceed 2 years, the probationary designation granted under subparagraph (B) if the country—

''(i) is making significant progress towards coming into full compliance with all applicable requirements for program country status under this section;

''(ii) is likely to achieve full compliance before the end of such 2–year period; and

''(iii) continues to be an ally of the United States against terrorist states, organizations, and individuals, as determined by the Secretary of Defense, in consultation with the Secretary of State.''.

SEC. 414. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle and the amendments made by this subtitle for the first fiscal year beginning before the date of enactment of this Act and each of the subsequent fiscal years beginning not more than 7 years after the effective date of the regulations promulgated by the Secretary to implement this subtitle.

Subtitle B—Immigration Injunction Reform

SEC. 421. SHORT TITLE.

This subtitle may be cited as the ''Fairness in Immigration Litigation Act of 2006''.

SEC. 422. APPROPRIATE REMEDIES FOR IMMIGRATION LEGISLATION.

(a) REQUIREMENTS FOR AN ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—If a court determines that prospective relief should be ordered against the Government in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court shall—

(A) limit the relief to the minimum necessary to correct the violation of law;

(B) adopt the least intrusive means to correct the violation of law;

(C) minimize, to the greatest extent practicable, the adverse impact on national security, border security, immigration administration and enforcement, and public safety, and

(D) provide for the expiration of the relief on a specific date, which is not later than the earliest date necessary for the Government to remedy the violation.

(2) WRITTEN EXPLANATION.—The requirements described in subsection (1) shall be discussed and explained in writing in the order granting prospective relief and must be sufficiently detailed to allow review by another court.

(3) EXPIRATION OF PRELIMINARY INJUNCTIVE RELIEF.—Preliminary injunctive relief shall automatically expire on the date that is 90 days after the date on which such relief is entered, unless the court—

(A) makes the findings required under paragraph (1) for the entry of permanent prospective relief; and

(B) makes the order final before expiration of such 90-day period.

(4) REQUIREMENTS FOR ORDER DENYING MOTION.—This subsection shall apply to any order denying the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(b) PROCEDURE FOR MOTION AFFECTING ORDER GRANTING PROSPECTIVE RELIEF AGAINST THE GOVERNMENT.—

(1) IN GENERAL.—A court shall promptly rule on the Government's motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States.

(2) AUTOMATIC STAYS.—

(A) IN GENERAL.—The Government's motion to vacate, modify, dissolve, or otherwise terminate an order granting prospective relief made in any civil action pertaining to the administration or enforcement of the immigration laws of the United States shall automatically, and without further order of the court, stay the order granting prospective relief on the date that is 15 days after the date on which such motion is filed unless the court previously has granted or denied the Government's motion.

(B) DURATION OF AUTOMATIC STAY.—An automatic stay under subparagraph (A) shall continue until the court enters an order granting or denying the Government's motion.

(C) POSTPONEMENT.—The court, for good cause, may postpone an automatic stay under subparagraph (A) for not longer than 15 days.

(D) ORDERS BLOCKING AUTOMATIC STAYS.—Any order staying, suspending, delaying, or otherwise barring the effective date of the automatic stay described in subparagraph (A), other than an order to postpone the effective date of the automatic stay for not longer than 15 days under subparagraph (C), shall be—

(i) treated as an order refusing to vacate, modify, dissolve or otherwise terminate an injunction; and

(ii) immediately appealable under section 1292(a)(1) of title 28, United States Code.

(c) SETTLEMENTS.—

(1) CONSENT DECREES.—In any civil action pertaining to the administration or enforcement of the immigration laws of the United States, the court may not enter, approve, or continue a consent decree that does not comply with subsection (a).

(2) PRIVATE SETTLEMENT AGREEMENTS.—Nothing in this section shall preclude parties from entering into a private settlement agreement that does not comply with subsection (a) if the terms of that agreement are not subject to court enforcement other than reinstatement of the civil proceedings that the agreement settled.

(d) DEFINITIONS.—In this section:

(1) CONSENT DECREE.—The term ''consent decree''—

(A) means any relief entered by the court that is based in whole or in part on the consent or acquiescence of the parties; and

(B) does not include private settlements.

(2) GOOD CAUSE.—The term ''good cause'' does not include discovery or congestion of the court's calendar.

(3) GOVERNMENT.—The term ''Government'' means the United States, any Federal department or agency, or any Federal agent or official acting within the scope of official duties.

(4) PERMANENT RELIEF.—The term ''permanent relief'' means relief issued in connection with a final decision of a court.

(5) PRIVATE SETTLEMENT AGREEMENT.—The term ''private settlement agreement'' means an agreement entered into among the parties that is not subject to judicial enforcement other than the reinstatement of the civil action that the agreement settled.

(6) PROSPECTIVE RELIEF.—The term ''prospective relief'' means temporary, preliminary, or permanent relief other than compensatory monetary damages.

(e) EXPEDITED PROCEEDINGS.—It shall be the duty of every court to advance on the docket and to expedite the disposition of any civil action or motion considered under this section.

SEC. 423. EFFECTIVE DATE.

(a) IN GENERAL.—This subtitle shall apply with respect to all orders granting prospective relief in any civil action pertaining to the administration or enforcement of the immigration laws of the United States, whether such relief was ordered before, on, or after the date of the enactment of this Act.

(b) PENDING MOTIONS.—Every motion to vacate, modify, dissolve or otherwise terminate an order granting prospective relief in any such action, which motion is pending on the date of the enactment of this Act, shall be treated as if it had been filed on such date of enactment.

(c) AUTOMATIC STAY FOR PENDING MOTIONS.—

(1) IN GENERAL.—An automatic stay with respect to the prospective relief that is the subject of a motion described in subsection (b) shall take effect without further order of the court on the date which is 10 days after the date of the enactment of this Act if the motion—

(A) was pending for 45 days as of the date of the enactment of this Act; and

(B) is still pending on the date which is 10 days after such date of enactment.

(2) DURATION OF AUTOMATIC STAY.—An automatic stay that takes effect under paragraph (1) shall continue until the court enters an order granting or denying the Government's motion under section 422(b). There shall be no further postponement of the automatic stay with respect to any such pending motion under section 422(b)(2). Any order, staying, suspending, delaying or otherwise barring the effective date of this automatic stay with respect to pending motions described in subsection (b) shall be an order blocking an automatic stay subject to immediate appeal under section 422(b)(2)(D).

TITLE V—BACKLOG REDUCTION

SEC. 501. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amended to read as follows:

''(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED IMMIGRANTS.—The worldwide level of family-sponsored immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 480,000;

''(2) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year;

''(3) the difference between—

''(A) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 minus the number of visas issued under this subsection during those fiscal years; and

''(B) the number of visas calculated under subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—

''(1) IN GENERAL.—Subject to paragraph (2), the worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(A)(i) 450,000, for each of the fiscal years 2007 through 2016; or

''(ii) 290,000, for fiscal year 2017 and each subsequent fiscal year;

''(B) the difference between the maximum number of visas authorized to be issued under this subsection during the previous fiscal year and the number of visas issued during the previous fiscal year; and

''(C) the difference between—

''(i) the maximum number of visas authorized to be issued under this subsection during fiscal years 2001 through 2005 and the number of visa numbers issued under this subsection during those fiscal years; and

''(ii) the number of visas calculated under clause (i) that were issued after fiscal year 2005.

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

''(A) IN GENERAL.—Except as provided in subparagraph (B), immigrant visas issued on or after October 1, 2004, to spouses and children of employment-based immigrants shall not be counted against the numerical limitation set forth in paragraph (1).

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

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

SEC. 502. COUNTRY LIMITS.

Section 202(a) (8 U.S.C. 1152(a)) is amended by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''.

SEC. 503. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

''(a) PREFERENCE ALLOCATIONS FOR FAMILY-SPONSORED IMMIGRANTS.—Aliens subject to the worldwide level specified in section 201(c) for family-sponsored immigrants shall be allocated visas as follows:

''(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—

''(A) IN GENERAL.—Visas in a quantity not to exceed 50 percent of such worldwide level plus any visas not required for the class specified in paragraph (1) shall be allocated to qualified immigrants who are—

''(i) the spouses or children of an alien lawfully admitted for permanent residence; or

''(ii) the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(B) MINIMUM PERCENTAGE.—Visas allocated to individuals described in subparagraph (A)(i) shall constitute not less than 77 percent of the visas allocated under this paragraph.

''(3) MARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the married sons and daughters of citizens of the United States shall be allocated visas in a quantity not to exceed the sum of—

''(A) 10 percent of such worldwide level; and

''(B) any visas not required for the classes specified in paragraphs (1) and (2).

''(4) BROTHERS AND SISTERS OF CITIZENS.—Qualified immigrants who are the brothers or sisters of a citizen of the United States who is at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level.''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''15 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''15 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—

''(A) IN GENERAL.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States.

''(B) PRIORITY IN ALLOCATING VISAS.—In allocating visas under subparagraph (A) for each of the fiscal years 2007 through 2017, the Secretary shall reserve 30 percent of such visas for qualified immigrants who were physically present in the United States before January 7, 2004.''; and

(8) by striking paragraph (6).

(c) SPECIAL IMMIGRANTS NOT SUBJECT TO NUMERICAL LIMITATIONS.—Section 201(b)(1)(A) (8 U.S.C. 1151(b)(1)(A)) is amended by striking ''subparagraph (A) or (B) of''.

(d) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) (8 U.S.C. 1101(a)(27)(M)) is amended by striking ''subject to the numerical limitations of section 203(b)(4),''.

(2) REPEAL OF TEMPORARY REDUCTION IN WORKERS' VISAS.—Section 203(e) of the Nicaraguan Adjustment and Central American Relief Act (Public Law 105–100; 8 U.S.C. 1153 note) is repealed.

SEC. 504. RELIEF FOR MINOR CHILDREN AND WIDOWS.

(a) IN GENERAL.—Section 201(b)(2) (8 U.S.C. 1151(b)(2)) is amended to read as follows:

''(2)(A)(i) Aliens admitted under section 211(a) on the basis of a prior issuance of a visa under section 203(a) to their accompanying parent who is an immediate relative.

''(ii) In this subparagraph, the term 'immediate relative' means a child, spouse, or parent of a citizen of the United States (and each child of such child, spouse, or parent who is accompanying or following to join the child, spouse, or parent), except that, in the case of parents, such citizens shall be at least 21 years of age.

''(iii) An alien who was the spouse of a citizen of the United States for not less than 2 years at the time of the citizen's death or, if married for less than 2 years at the time of the citizen's death, proves by a preponderance of the evidence that the marriage was entered into in good faith and not solely for the purpose of obtaining an immigration benefit and was not legally separated from the citizen at the time of the citizen's death, and each child of such alien, shall be considered, for purposes of this subsection, to remain an immediate relative after the date of the citizen's death if the spouse files a petition under section 204(a)(1)(A)(ii) before the earlier of—

''(I) 2 years after such date; or

''(II) the date on which the spouse remarries.

''(iv) In this clause, an alien who has filed a petition under clause (iii) or (iv) of section 204(a)(1)(A) remains an immediate relative if the United States citizen spouse or parent loses United States citizenship on account of the abuse.

''(B) Aliens born to an alien lawfully admitted for permanent residence during a temporary visit abroad.''.

(b) PETITION.—Section 204(a)(1)(A)(ii) (8 U.S.C. 1154(a)(1)(A)(ii)) is amended by striking ''in the second sentence of section 201(b)(2)(A)(i) also'' and inserting ''in section 201(b)(2)(A)(iii) or an alien child or alien parent described in the 201(b)(2)(A)(iv)''.

SEC. 505. SHORTAGE OCCUPATIONS.

(a) EXCEPTION TO DIRECT NUMERICAL LIMITATIONS.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following new subparagraph:

''(F)(i) During the period beginning on the date of the enactment the Comprehensive Immigration Reform Act of 2006 and ending on September 30, 2017, an alien—

''(I) who is otherwise described in section 203(b); and

''(II) who is seeking admission to the United States to perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) due to the lack of sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

''(ii) During the period described in clause (i), the spouse or dependents of an alien described in clause (i), if accompanying or following to join such alien.''.

(b) EXCEPTION TO NONDISCRIMINATION REQUIREMENTS.—Section 202(a)(1)(A) (8 U.S.C. 1152(a)(1)(A)) is amended by striking ''201(b)(2)(A)(i)'' and inserting ''201(b)''.

(c) EXCEPTION TO PER COUNTRY LEVELS FOR FAMILY-SPONSORED AND EMPLOYMENT-BASED IMMIGRANTS.—Section 202(a)(2) (8 U.S.C. 1152(a)(2)), as amended by section 502(1), is further amended by inserting '', except for aliens described in section 201(b),'' after ''any fiscal year''.

(d) INCREASING THE DOMESTIC SUPPLY OF NURSES AND PHYSICAL THERAPISTS.—Not later than January 1, 2007, the Secretary of Health and Human Services shall—

(1) submit to Congress a report on the source of newly licensed nurses and physical therapists in each State, which report shall—

(A) include the past 3 years for which data are available;

(B) provide separate data for each occupation and for each State;

(C) separately identify those receiving their initial license and those licensed by endorsement from another State;

(D) within those receiving their initial license in each year, identify the number who received their professional education in the United States and those who received such education outside the United States; and

(E) to the extent possible, identify, by State of residence and country of education, the number of nurses and physical therapists who were educated in any of the 5 countries (other than the United States) from which the most nurses and physical therapists arrived;

(F) identify the barriers to increasing the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(G) recommend strategies to be followed by Federal and State governments that would be effective in removing such barriers, including strategies that address barriers to advancement to become registered nurses for other health care workers, such as home health aides and nurses assistants;

(H) recommend amendments to Federal legislation that would increase the supply of nursing faculty, domestically trained nurses, and domestically trained physical therapists;

(I) recommend Federal grants, loans, and other incentives that would provide increases in nurse educators, nurse training facilities, and other steps to increase the domestic education of new nurses and physical therapists;

(J) identify the effects of nurse emigration on the health care systems in their countries of origin; and

(K) recommend amendments to Federal law that would minimize the effects of health care shortages in the countries of origin from which immigrant nurses arrived;

(2) enter into a contract with the National Academy of Sciences Institute of Medicine to determine the level of Federal investment under titles VII and VIII of the Public Health Service Act necessary to eliminate the domestic nursing and physical therapist shortage not later than 7 years from the date on which the report is published; and

(3) collaborate with other agencies, as appropriate, in working with ministers of health or other appropriate officials of the 5 countries from which the most nurses and physical therapists arrived, to—

(A) address health worker shortages caused by emigration;

(B) ensure that there is sufficient human resource planning or other technical assistance needed to reduce further health worker shortages in such countries.

SEC. 506. RELIEF FOR WIDOWS AND ORPHANS.

(a) SHORT TITLE.—This section may be cited as the ''Widows and Orphans Act of 2006''.

(b) NEW SPECIAL IMMIGRANT CATEGORY.—

(1) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended—

(A) in subparagraph (L), by inserting a semicolon at the end;

(B) in subparagraph (M), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(N) subject to subsection (j), an immigrant who is not present in the United States—

''(i) who is—

''(I) referred to a consular, immigration, or other designated official by a United States Government agency, an international organization, or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a minor under 18 years of age (as determined under subsection (j)(5))—

''(aa) for whom no parent or legal guardian is able to provide adequate care;

''(bb) who faces a credible fear of harm related to his or her age;

''(cc) who lacks adequate protection from such harm; and

''(dd) for whom it has been determined to be in his or her best interests to be admitted to the United States; or

''(ii) who is—

''(I) referred to a consular or immigration official by a United States Government agency, an international organization or recognized nongovernmental entity designated by the Secretary of State for purposes of such referrals; and

''(II) determined by such official to be a female who has—

''(aa) a credible fear of harm related to her sex; and

''(bb) a lack of adequate protection from such harm.''.

(2) STATUTORY CONSTRUCTION.—Section 101 (8 U.S.C. 1101) is amended by adding at the end the following:

''(j)(1) No natural parent or prior adoptive parent of any alien provided special immigrant status under subsection (a)(27)(N)(i) shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act.

''(2)(A) No alien who qualifies for a special immigrant visa under subsection (a)(27)(N)(ii) may apply for derivative status or petition for any spouse who is represented by the alien as missing, deceased, or the source of harm at the time of the alien's application and admission. The Secretary of Homeland Security may waive this requirement for an alien who demonstrates that the alien's representations regarding the spouse were bona fide.

''(B) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) may apply for derivative status or petition for any sibling under the age of 18 years or children under the age of 18 years of any such alien, if accompanying or following to join the alien. For purposes of this subparagraph, a determination of age shall be made using the age of the alien on the date the petition is filed with the Department of Homeland Security.

''(3) An alien who qualifies for a special immigrant visa under subsection (a)(27)(N) shall be treated in the same manner as a refugee solely for purposes of section 412.

''(4) The provisions of paragraphs (4), (5), and (7)(A) of section 212(a) shall not be applicable to any alien seeking admission to the United States under subsection (a)(27)(N), and the Secretary of Homeland Security may

waive any other provision of such section (other than paragraph 2(C) or subparagraph (A), (B), (C), or (E) of paragraph (3)) with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest. Any such waiver by the Secretary of Homeland Security shall be in writing and shall be granted only on an individual basis following an investigation. The Secretary of Homeland Security shall provide for the annual reporting to Congress of the number of waivers granted under this paragraph in the previous fiscal year and a summary of the reasons for granting such waivers.

''(5) For purposes of subsection (a)(27)(N)(i)(II), a determination of age shall be made using the age of the alien on the date on which the alien was referred to the consular, immigration, or other designated official.

''(6) The Secretary of Homeland Security shall waive any application fee for a special immigrant visa for an alien described in section 101(a)(27)(N).''.

(3) EXPEDITED PROCESS.—Not later than 45 days after the date of referral to a consular, immigration, or other designated official (as described in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1))—

(A) special immigrant status shall be adjudicated; and

(B) if special immigrant status is granted, the alien shall be paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) within 1 year after the alien's arrival in the United States.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives on the progress of the implementation of this section and the amendments made by this section, including—

(A) data related to the implementation of this section and the amendments made by this section;

(B) data regarding the number of placements of females and children who faces a credible fear of harm as referred to in section 101(a)(27)(N) of the Immigration and Nationality Act, as added by paragraph (1); and

(C) any other information that the Secretary considers appropriate.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection and the amendments made by this subsection.

(c) REQUIREMENTS FOR ALIENS.—

(1) REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.—

(A) DATABASE SEARCH.—An alien may not be admitted to the United States unless the Secretary has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the United States on criminal, security, or related grounds.

(B) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (A) is completed not later than 45 days after the date on which an alien files a petition seeking a special immigration visa under section 101(a)(27)(N) of the Immigration and Nationality Act, as added by subsection (b)(1).

(2) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(A) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(i) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States, the alien shall be fingerprinted and submit to the Secretary such fingerprints and any other personal biometric data required by the Secretary.

(ii) OTHER REQUIREMENTS.—The Secretary may prescribe regulations that permit fingerprints submitted by an alien under section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or any other provision of law to satisfy the requirement to submit fingerprints of clause (i).

(B) DATABASE SEARCH.—The Secretary shall ensure that a search of each database that contains fingerprints that is maintained by an agency or department of the United States be conducted to determine whether such alien is ineligible for an adjustment of status under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds.

(C) COOPERATION AND SCHEDULE.—The Secretary and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by subparagraph (B) is completed not later than 180 days after the date on which the alien enters the United States.

(D) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(i) IN GENERAL.—There may be no review of a determination by the Secretary, after a search required by subparagraph (B), that an alien is ineligible for an adjustment of status, under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) on criminal, security, or related grounds except as provided in this subparagraph.

(ii) ADMINISTRATIVE REVIEW.—An alien may appeal a determination described in clause (i) through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services. The Secretary shall ensure that a determination on such appeal is made not later than 60 days after the date that the appeal is filed.

(iii) JUDICIAL REVIEW.—There may be no judicial review of a determination described in clause (i).

SEC. 507. STUDENT VISAS.

(a) IN GENERAL.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended—

(1) in clause (i)—

(A) by striking ''he has no intention of abandoning, who is'' and inserting the following: ''except in the case of an alien described in clause (iv), the alien has no intention of abandoning, who is—

''(I)'';

(B) by striking ''consistent with section 214(l)'' and inserting ''(except for a graduate program described in clause (iv)) consistent with section 214(m)'';

(C) by striking the comma at the end and inserting the following: ''; or

''(II) engaged in temporary employment for optional practical training related to the alien's area of study, which practical training shall be authorized for a period or periods of up to 24 months;'';

(2) in clause (ii)—

(A) by inserting ''or (iv)'' after ''clause (i)''; and

(B) by striking '', and'' and inserting a semicolon; and

(3) by adding at the end the following:

''(iv) an alien described in clause (i) who has been accepted and plans to attend an accredited graduate program in mathematics, engineering, technology, or the sciences in the United States for the purpose of obtaining an advanced degree; and

''(v) an alien who maintains actual residence and place of abode in the alien's country of nationality, who is described in clause (i), except that the alien's actual course of study may involve a distance learning program, for which the alien is temporarily visiting the United States for a period not to exceed 30 days.''

(b) CREATION OF J–STEM VISA CATEGORY.—Section 101(a)(15)(J) (8 U.S.C. 1101(a)(15)(J)) is amended to read as follows:

''(J) an alien with a residence in a foreign country that (except in the case of an alien described in clause (ii)) the alien has no intention of abandoning, who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, and who—

''(i) is coming temporarily to the United States as a participant in a program (other than a graduate program described in clause (ii)) designated by the Secretary of State, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if coming to the United States to participate in a program under which the alien will receive graduate medical education or training, also meets the requirements of section 212(j), and the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien; or

''(ii) has been accepted and plans to attend an accredited graduate program in the sciences, technology, engineering, or mathematics in the United States for the purpose of obtaining an advanced degree.

''(c) ADMISSION OF NONIMMIGRANTS.—Section 214(b) (8 U.S.C. 1184(b)) is amended by striking 'subparagraph (L) or (V)' and inserting 'subparagraph (F)(iv), (J)(ii), (L), or (V)'.

''(d) REQUIREMENTS FOR F–4 OR J–STEM VISA.—Section 214(m) (8 U.S.C. 1184(m)) is amended—

''(1) by inserting before paragraph (1) the following:

''(m) NONIMMIGRANT ELEMENTARY, SECONDARY, AND POST-SECONDARY SCHOOL STUDENTS.—''; and

(2) by adding at the end the following:

''(3) A visa issued to an alien under subparagraph (F)(iv) or (J)(ii) of section 101(a)(15) shall be valid—

''(A) during the intended period of study in a graduate program described in such section;

''(B) for an additional period, not to exceed 1 year after the completion of the graduate program, if the alien is actively pursuing an offer of employment related to the knowledge and skills obtained through the graduate program; and

''(C) for the additional period necessary for the adjudication of any application for labor certification, employment-based immigrant petition, and application under section 245(a)(2) to adjust such alien's status to that of an alien lawfully admitted for permanent residence, if such application for labor certification or employment-based immigrant petition has been filed not later than 1 year after the completion of the graduate program.''

(e) WAIVER OF FOREIGN RESIDENCE REQUIREMENT.—Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting ''(1)'' before ''No person'';

(2) by striking ''admission (i) whose'' and inserting the following: ''admission—

''(A) whose

''(3) by striking ''residence, (ii) who'' and inserting the following: ''residence;

''(B) who

''(4) by striking ''engaged, or (iii) who'' and inserting the following: ''engaged; or

''(C) who

''(5) by striking ''training, shall'' and inserting the following: ''training,
shall

''(6) by striking ''United States: *Provided,* That upon'' and inserting the following: ''United States.

''(2) Upon'';

(7) by striking ''section 214(l): And provided further, That, except'' and inserting the following: ''section 214(l).

''(3) Except''; and

(8) by adding at the end the following:

''(4) An alien who has been issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(J)(ii), or who would have qualified for such nonimmigrant status if section 101(a)(15)(J)(ii) had been enacted before the completion of such alien's graduate studies, shall not be subject to the 2-year foreign residency requirement under this subsection.''

(f) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full-time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

(g) ADJUSTMENT OF STATUS.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) AUTHORIZATION.—

''(1) IN GENERAL.—The status of an alien, who was inspected and admitted or paroled into the United States, or who has an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), may be adjusted by the Secretary of Homeland Security or the Attorney General, under such regulations as the Secretary or the Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa;

''(C) the alien is admissible to the United States for permanent residence; and

''(D) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) STUDENT VISAS.—Notwithstanding the requirement under paragraph (1)(D), an alien may file an application for adjustment of status under this section if—

''(A) the alien has been issued a visa or otherwise provided nonimmigrant status under subparagraph (J)(ii) or (F)(iv) of section 101(a)(15), or would have qualified for such nonimmigrant status if subparagraph (J)(ii) or (F)(iv) of section 101(a)(15) had been enacted before the completion of such alien's graduate studies;

''(B) the alien has earned an advanced degree in the sciences, technology, engineering, or mathematics;

''(C) the alien is the beneficiary of a petition filed under subparagraph (E) or (F) of section 204(a)(1); and

''(D) a fee of $2,000 is remitted to the Secretary on behalf of the alien.

''(3) LIMITATION.—An application for adjustment of status filed under this section may not be approved until an immigrant visa number becomes available.

''(4) FILING IN CASES OF UNAVAILABLE VISA NUMBERS.—Subject to the limitation described in paragraph (3), if a supplemental petition fee is paid for a petition under subparagraph (E) or (F) of section 204(a)(1), an application under paragraph (1) on behalf of an alien that is a beneficiary of the petition (including a spouse or child who is accompanying or following to join the beneficiary) may be filed without regard to the requirement under paragraph (1)(D).

''(5) PENDING APPLICATIONS.—Subject to the limitation described in paragraph (3), if a petition under subparagraph (E) or (F) of section 204(a)(1) is pending or approved as of the date of enactment of this paragraph, on payment of the supplemental petition fee under that section, the alien that is the beneficiary of the petition may submit an application for adjustment of status under this subsection without regard to the requirement under paragraph (1)(D).

''(6) EMPLOYMENT AUTHORIZATIONS AND ADVANCED PAROLE TRAVEL DOCUMENTATION.—The Attorney General shall—

''(A) provide to any immigrant who has submitted an application for adjustment of status under this subsection not less than 3 increments, the duration of each of which shall be not less than 3 years, for any applicable employment authorization or advanced parole travel document of the immigrant; and

''(B) adjust each applicable fee payment schedule in accordance with the increments provided under subparagraph (A) so that 1 fee for each authorization or document is required for each 3-year increment.''

(h) USE OF FEES.—

(1) JOB TRAINING; SCHOLARSHIPS.—Section 286(s)(1) (8 U.S.C. 1356(s)(1)) is amended by inserting ''and 80 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

(2) FRAUD PREVENTION AND DETECTION.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting ''and 20 percent of the fees collected under section 245(a)(2)(D)'' before the period at the end.

SEC. 508. VISAS FOR INDIVIDUALS WITH ADVANCED DEGREES.

(a) ALIENS WITH CERTAIN ADVANCED DEGREES NOT SUBJECT TO NUMERICAL LIMITATIONS ON EMPLOYMENT BASED IMMIGRANTS.—

(1) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by section 505, is amended by adding at the end the following:

''(G) Aliens who have earned an advanced degree in science, technology, engineering, or math and have been working in a related field in the United States under a nonimmigrant visa during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(H) Aliens described in subparagraph (A) or (B) of section 203(b)(1)(A) or who have received a national interest waiver under section 203(b)(2)(B).

''(I) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(2) APPLICABILITY.—The amendment made by paragraph (1) shall apply to any visa application—

(A) pending on the date of the enactment of this Act; or

(B) filed on or after such date of enactment.

(b) LABOR CERTIFICATION.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) in subclause (I), by striking ''or'' at the end;

(2) in subclause (II), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(III) has an advanced degree in the sciences, technology, engineering, or mathematics from an accredited university in the United States and is employed in a field related to such degree.''.

(c) TEMPORARY WORKERS.—Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(ii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of this clause; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (5)—

(A) in subparagraph (B), by striking ''or'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following:

''(D) has earned an advanced degree in science, technology, engineering, or math.'';

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

(d) APPLICABILITY.—The amendment made by subsection (c)(2) shall apply to any visa application—

(1) pending on the date of the enactment of this Act; or

(2) filed on or after such date of enactment.

(e) WORLDWIDE LEVEL OF IMMIGRANTS WITH ADVANCED DEGREES.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)(3), by inserting ''and immigrants with advanced degrees'' after ''diversity immigrants''; and

(2) by amending subsection (e) to read as follows:

''(e) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS AND IMMIGRANTS WITH ADVANCED DEGREES.—

''(1) DIVERSITY IMMIGRANTS.—The worldwide level of diversity immigrants described in section 203(c)(1) is equal to 18,333 for each fiscal year.

''(2) IMMIGRANTS WITH ADVANCED DEGREES.—The worldwide level of immigrants

with advanced degrees described in section 203(c)(2) is equal to 36,667 for each fiscal year.''.

(f) IMMIGRANTS WITH ADVANCED DEGREES.—Section 203 (8 U.S.C. 1153(c)) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by striking ''paragraph (2), aliens subject to the worldwide level specified in section 201(e)'' and inserting ''paragraphs (2) and (3), aliens subject to the worldwide level specified in section 201(e)(1)'';

(B) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(C) by inserting after paragraph (1) the following:

''(2) ALIENS WHO HOLD AN ADVANCED DEGREE IN SCIENCE, MATHEMATICS, TECHNOLOGY, OR ENGINEERING.—

''(A) IN GENERAL.—Qualified immigrants who hold a master's or doctorate degree in the life sciences, the physical sciences, mathematics, technology, or engineering from an accredited university in the United States, or an equivalent foreign degree, shall be allotted visas each fiscal year in a number not to exceed the worldwide level specified in section 201(e)(2).

''(B) ECONOMIC CONSIDERATIONS.—Beginning on the date which is 1 year after the date of the enactment of this paragraph, the Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Labor, and after notice and public hearing, shall determine which of the degrees described in subparagraph (A) will provide immigrants with the knowledge and skills that are most needed to meet anticipated workforce needs and protect the economic security of the United States.'';

(D) in paragraph (3), as redesignated, by striking ''this subsection'' each place it appears and inserting ''paragraph (1)''; and

(E) by amending paragraph (4), as redesignated, to read as follows:

''(4) MAINTENANCE OF INFORMATION.—

''(A) DIVERSITY IMMIGRANTS.—The Secretary of State shall maintain information on the age, occupation, education level, and other relevant characteristics of immigrants issued visas under paragraph (1).

''(B) IMMIGRANTS WITH ADVANCED DEGREES.—The Secretary of State shall maintain information on the age, degree (including field of study), occupation, work experience, and other relevant characteristics of immigrants issued visas under paragraph (2).''; and

(2) in subsection (e)—

(A) in paragraph (2), by striking ''(c)'' and inserting ''(c)(1)'';

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) Immigrant visas made available under subsection (c)(2) shall be issued as follows:

''(A) If the Secretary of State has not made a determination under subsection (c)(2)(B), immigrant visas shall be issued in a strictly random order established by the Secretary for the fiscal year involved.

''(B) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have a degree selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is greater than the worldwide level specified in section 201(e)(2), the Secretary shall issue immigrant visas only to such immigrants and in a strictly random order established by the Secretary for the fiscal year involved.

''(C) If the Secretary of State has made a determination under subsection (c)(2)(B) and the number of eligible qualified immigrants who have degrees selected under such subsection and apply for an immigrant visa described in subsection (c)(2) is not greater than the worldwide level specified in section 201(e)(2), the Secretary shall—

''(i) issue immigrant visas to eligible qualified immigrants with degrees selected in subsection (c)(2)(B); and

''(ii) issue any immigrant visas remaining thereafter to other eligible qualified immigrants with degrees described in subsection (c)(2)(A) in a strictly random order established by the Secretary for the fiscal year involved.''.

(g) EFFECTIVE DATE.—The amendments made by subsections (e) and (f) shall take effect on October 1, 2006.

SEC. 509. CHILDREN OF FILIPINO WORLD WAR II VETERANS.

Section 201(b)(1) (8 U.S.C. 1151(b)(1)), as amended by sections 505 and 508, is further amended by adding at the end the following:

''(J) Aliens who are eligible for a visa under paragraph (1) or (3) of section 203(a) and are the children of a citizen of the United States who was naturalized pursuant to section 405 of the Immigration Act of 1990 (8 U.S.C. 1440 note).''.

SEC. 510. EXPEDITED ADJUDICATION OF EMPLOYER PETITIONS FOR ALIENS OF EXTRAORDINARY ARTISTIC ABILITY.

Section 214(c) (8 U.S.C. 1184(c)) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(2) in paragraph (6)(D)—

(A) by Striking ''Any person'' and inserting ''(i) Except as provided in clause (ii), any person''; and

(B) adding at the end the following:

''(ii) The Secretary of Homeland Security shall adjudicate each petition for an alien with extraordinary ability in the arts (as described in section 101(a)(15)(O)(i)), an alien accompanying such an alien (as described in clauses (ii) and (iii) of section 101(a)(15)(O)), or an alien described in section 101(a)(15)(P) not later than 30 days after—

''(I) the date on which the petitioner submits the petition with a written advisory opinion, letter of no objection, or request for a waiver; or

''(II) the date on which the 15-day period described in clause (i) has expired, if the petitioner has had an opportunity, as appropriate, to supply rebuttal evidence.

''(iii) If a petition described in clause (ii) is not adjudicated before the end of the 30-day period described in clause (ii) and the petitioner is a qualified nonprofit organization or an individual or entity petitioning primarily on behalf of a qualified nonprofit organization, the Secretary of Homeland Security shall provide the petitioner with the premium-processing services referred to in section 286(u), without a fee.''.

SEC. 511. POWERLINE WORKERS.

Section 214(e) (8 U.S.C. 1184(e)) is amended by adding at the end the following new paragraph:

''(7) A citizen of Canada who is a powerline worker, who has received significant training, and who seeks admission to the United States to perform powerline repair and maintenance services shall be admitted in the same manner and under the same authority as a citizen of Canada described in paragraph (2).''.

SEC. 512. DETERMINATIONS WITH RESPECT TO CHILDREN UNDER THE HAITIAN REFUGEE IMMIGRATION FAIRNESS ACT OF 1998.

(a) IN GENERAL.—Section 902(d) of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended by adding at the end the following:

''(3) DETERMINATIONS WITH RESPECT TO CHILDREN.—

''(A) USE OF APPLICATION FILING DATE.—Determinations made under this subsection as to whether an individual is a child of a parent shall be made using the age and status of the individual on October 21, 1998.

''(B) APPLICATION SUBMISSION BY PARENT.—Notwithstanding paragraph (1)(C), an application under this subsection filed based on status as a child may be filed for the benefit of such child by a parent or guardian of the child, if the child is physically present in the United States on such filing date.''.

(b) NEW APPLICATIONS AND MOTIONS TO REOPEN.—

(1) NEW APPLICATIONS.—Notwithstanding section 902(a)(1)(A) of the Haitian Refugee Immigration Fairness Act of 1998, an alien who is eligible for adjustment of status under such Act, as amended by subsection (a), may submit an application for adjustment of status under such Act not later than the later of—

(A) 2 years after the date of the enactment of this Act; or

(B) 1 year after the date on which final regulations implementing this section, and the amendment made by subsection (a), are promulgated.

(2) MOTIONS TO REOPEN.—The Secretary shall establish procedures for the reopening and reconsideration of applications for adjustment of status under the Haitian Refugee Immigration Fairness Act of 1998 that are affected by the amendment made by subsection (a).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—Section 902(a)(3) of the Haitian Refugee Immigration Fairness Act of 1998 shall apply to an alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily, and who files an application under paragraph (1) or a motion under paragraph (2), in the same manner as such section 902(a)(3) applied to aliens filing applications for adjustment of status under such Act prior to April 1, 2000.

(c) INADMISSIBILITY DETERMINATION.—Section 902 of the Haitian Refugee Immigration Fairness Act of 1998 (8 U.S.C. 1255 note) is amended in subsections (a)(1)(B) and (d)(1)(D) by inserting ''(6)(C)(i),'' after ''(6)(A),''.

Subtitle B—SKIL Act

SEC. 521. SHORT TITLE.

This subtitle may be cited as the ''Securing Knowledge, Innovation, and Leadership Act of 2006'' or the ''SKIL Act of 2006''

SEC. 522. H–1B VISA HOLDERS.

(a) IN GENERAL.—Section 214(g)(5) (8 U.S.C. 1184(g)(5)) is amended—

(1) in subparagraph (B)—

(A) by striking ''nonprofit research'' and inserting ''nonprofit'';

(B) by inserting ''Federal, State, or local'' before ''governmental''; and

(C) by striking ''or'' at the end;

(2) in subparagraph (C)—

(A) by striking ''a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))),'' and inserting ''an institution of higher education in a foreign country,''; and

(B) by striking the period at the end and inserting a semicolon;

(3) by adding at the end, the following new subparagraphs:

''(D) has earned a master's or higher degree from a United States institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)));

''(E) has been awarded medical specialty certification based on post-doctoral training and experience in the United States; or''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any petition

or visa application pending on the date of enactment of this Act and any petition or visa application filed on or after such date.

SEC. 523. MARKET-BASED VISA LIMITS.

Section 214(g) (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ''(beginning with fiscal year 1992)''; and

(B) in subparagraph (A)—

(i) in clause (vi) by striking ''and'';

(ii) in clause (vii), by striking ''each succeeding fiscal year; or'' and inserting ''each of fiscal years 2004, 2005, and 2006;''; and

(iii) by adding after clause (vii) the following:

''(viii) 115,000 in the first fiscal year beginning after the date of the enactment of the Securing Knowledge, Innovation, and Leadership Act of 2006; and

''(ix) the number calculated under paragraph (9) in each fiscal year after the year described in clause (viii); or'';

(2) in paragraph (8), by striking subparagraphs (B)(iv) and (D);

(3) by redesignating paragraphs (9), (10), and (11) as paragraphs (10), (11), and (12), respectively; and

(4) by inserting after paragraph (8) the following:

''(9) If the numerical limitation in paragraph (1)(A)—

''(A) is reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to 120 percent of the numerical limitation of the given fiscal year; or

''(B) is not reached during a given fiscal year, the numerical limitation under paragraph (1)(A)(ix) for the subsequent fiscal year shall be equal to the numerical limitation of the given fiscal year.''.

SEC. 524. UNITED STATES EDUCATED IMMIGRANTS.

(a) IN GENERAL.—Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

''(F) Aliens who have earned a master's or higher degree from an accredited United States university.

''(G) Aliens who have been awarded medical specialty certification based on post-doctoral training and experience in the United States preceding their application for an immigrant visa under section 203(b).

''(H) Aliens who will perform labor in shortage occupations designated by the Secretary of Labor for blanket certification under section 212(a)(5)(A) as lacking sufficient United States workers able, willing, qualified, and available for such occupations and for which the employment of aliens will not adversely affect the terms and conditions of similarly employed United States workers.

''(I) Aliens who have earned a master's degree or higher in science, technology, engineering, or math and have been working in a related field in the United States in a nonimmigrant status during the 3-year period preceding their application for an immigrant visa under section 203(b).

''(J) Aliens described in subparagraph (A) or (B) of section 203(b)(1) or who have received a national interest waiver under section 203(b)(2)(B).

''(K) The spouse and minor children of an alien who is admitted as an employment-based immigrant under section 203(b).''.

(b) LABOR CERTIFICATIONS.—Section 212(a)(5)(A)(ii) (8 U.S.C. 1182(a)(5)(A)(ii)) is amended—

(1) by striking ''or'' at the end of subclause (I);

(2) by striking the period at the end of subclause (II) and inserting ''; or''; and

(3) by adding at the end the following:

''(III) is a member of the professions and has a master's degree or higher from an accredited United States university or has been awarded medical specialty certification based on post-doctoral training and experience in the United States.''.

SEC. 525. STUDENT VISA REFORM.

(a) IN GENERAL.—

(1) NONIMMIGRANT CLASSIFICATION.—Section 101(a)(15)(F) (8 U.S.C. 1101(a)(15)(F)) is amended to read as follows:

''(F) an alien—

''(i) who—

''(I) is a bona fide student qualified to pursue a full course of study in mathematics, engineering, technology, or the sciences leading to a bachelors or graduate degree and who seeks to enter the United States for the purpose of pursuing such a course of study consistent with section 214(m) at an institution of higher education (as defined by section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) in the United States, particularly designated by the alien and approved by the Secretary of Homeland Security, after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Secretary the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn; or

''(II) is engaged in temporary employment for optional practical training related to such alien's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;

''(ii) who—

''(I) has a residence in a foreign country which the alien has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study, and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with section 214(m) at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program in the United States, particularly designated by the alien and approved by the Secretary of Homeland Security, after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Secretary the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn; or

''(II) is engaged in temporary employment for optional practical training related to such alien's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;

''(iii) who is the spouse or minor child of an alien described in clause (i) or (ii) if accompanying or following to join such an alien; or

''(iv) who—

''(I) is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) or (ii) except that the alien's qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico; or

''(II) is engaged in temporary employment for optional practical training related to such the student's area of study following completion of the course of study described in subclause (I) for a period or periods of not more than 24 months;''.

(2) ADMISSION.—Section 214(b) (8 U.S.C. 1184(b)) is amended by inserting ''(F)(i),'' before ''(L) or (V)''.

(3) CONFORMING AMENDMENT.—Section 214(m)(1) (8 U.S.C. 1184(m)(1)) is amended, in the matter preceding subparagraph (A), by striking ''(i) or (iii)'' and inserting ''(i), (ii), or (iv)''.

(b) OFF CAMPUS WORK AUTHORIZATION FOR FOREIGN STUDENTS.—

(1) IN GENERAL.—Aliens admitted as nonimmigrant students described in section 101(a)(15)(F), as amended by subsection (a), (8 U.S.C. 1101(a)(15)(F)) may be employed in an off-campus position unrelated to the alien's field of study if—

(A) the alien has enrolled full-time at the educational institution and is maintaining good academic standing;

(B) the employer provides the educational institution and the Secretary of Labor with an attestation that the employer—

(i) has spent at least 21 days recruiting United States citizens to fill the position; and

(ii) will pay the alien and other similarly situated workers at a rate equal to not less than the greater of—

(I) the actual wage level for the occupation at the place of employment; or

(II) the prevailing wage level for the occupation in the area of employment; and

(C) the alien will not be employed more than—

(i) 20 hours per week during the academic term; or

(ii) 40 hours per week during vacation periods and between academic terms.

(2) DISQUALIFICATION.—If the Secretary of Labor determines that an employer has provided an attestation under paragraph (1)(B) that is materially false or has failed to pay wages in accordance with the attestation, the employer, after notice and opportunity for a hearing, shall be disqualified from employing an alien student under paragraph (1).

SEC. 526. L–1 VISA HOLDERS SUBJECT TO VISA BACKLOG.

Section 214(c)(2) (8 U.S.C. 1184(c)(2)) is amended by adding at the end the following new subparagraph:

''(G) The limitations contained in subparagraph (D) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(L) on whose behalf a petition under section 204(b) to accord the alien immigrant status under section 203(b), or an application for labor certification (if such certification is required for the alien to obtain status under such section 203(b)) has been filed, if 365 days or more have elapsed since such filing. The Secretary of Homeland Security shall extend the stay of an alien who qualifies for an exemption under this subparagraph until such time as a final decision is made on the alien's lawful permanent residence.''.

SEC. 527. RETAINING WORKERS SUBJECT TO GREEN CARD BACKLOG.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Section 245(a) (8 U.S.C. 1255(a)) is amended to read as follows:

''(a) ELIGIBILITY.—

''(1) IN GENERAL.—The status of an alien who was inspected and admitted or paroled into the United States or the status of any other alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1) may be adjusted by the Secretary of Homeland Security or the Attorney General, in the discretion of the Secretary or the Attorney General under such regulations as the Secretary or Attorney General may prescribe, to that of an alien lawfully admitted for permanent residence if—

''(A) the alien makes an application for such adjustment;

''(B) the alien is eligible to receive an immigrant visa and is admissible to the United States for permanent residence; and

''(C) an immigrant visa is immediately available to the alien at the time the application is filed.

''(2) SUPPLEMENTAL FEE.—An application under paragraph (1) that is based on a petition approved or approvable under subparagraph (E) or (F) of section 204(a)(1) may be filed without regard to the limitation set forth in paragraph (1)(C) if a supplemental fee of $500 is paid by the principal alien at the time the application is filed. A supplemental fee may not be required for any dependent alien accompanying or following to join the principal alien.

''(3) VISA AVAILABILITY.—An application for adjustment filed under this paragraph may not be approved until such time as an immigrant visa become available.''.

(b) USE OF FEES.—Section 286(v)(1) (8 U.S.C. 1356(v)(1)) is amended by inserting before the period at the end ''and the fees collected under section 245(a)(2).''.

SEC. 528. STREAMLINING THE ADJUDICATION PROCESS FOR ESTABLISHED EMPLOYERS.

Section 214(c) (8. U.S.C. 1184) is amended by adding at the end the following new paragraph:

''(1) Not later than 180 days after the date of the enactment of the Securing Knowledge, Innovation, and Leadership Act of 2006, the Secretary of Homeland Security shall establish a pre-certification procedure for employers who file multiple petitions described in this subsection or section 203(b). Such precertification procedure shall enable an employer to avoid repeatedly submitting documentation that is common to multiple petitions and establish through a single filing criteria relating to the employer and the offered employment opportunity.''.

SEC. 529. PROVIDING PREMIUM PROCESSING OF EMPLOYMENT-BASED VISA PETITIONS.

(a) IN GENERAL.—Pursuant to section 286(u) of the Immigration and Nationality Act (8 U.S.C. 1356(u)), the Secretary of Homeland Security shall establish and collect a fee for premium processing of employment-based immigrant petitions.

(b) APPEALS.—Pursuant to such section 286(u), the Secretary of Homeland Security shall establish and collect a fee for premium processing of an administrative appeal of any decision on a permanent employment-based immigrant petition.

SEC. 530. ELIMINATING PROCEDURAL DELAYS IN LABOR CERTIFICATION PROCESS.

(a) PREVAILING WAGE RATE.—

(1) REQUIREMENT TO PROVIDE.—The Secretary of Labor shall provide prevailing wage determinations to employers seeking a labor certification for aliens pursuant to part 656 of title 20, Code of Federal Regulation (or any successor regulation). The Secretary of Labor may not delegate this function to any agency of a State.

(2) SCHEDULE FOR DETERMINATION.—Except as provided in paragraph (3), the Secretary of Labor shall provide a response to an employer's request for a prevailing wage determination in no more than 20 calendar days from the date of receipt of such request. If the Secretary of Labor fails to reply during such 20-day period, then the wage proposed by the employer shall be the valid prevailing wage rate.

(3) USE OF SURVEYS.—The Secretary of Labor shall accept an alternative wage survey provided by the employer unless the Secretary of Labor determines that the wage component of the Occupational Employment Statistics Survey is more accurate for the occupation in the labor market area.

(b) PLACEMENT OF JOB ORDER.—The Secretary of Labor shall maintain a website with links to the official website of each workforce agency of a State, and such official website shall contain instructions on the filing of a job order in order to satisfy the job order requirements of section 656.17(e)(1) of title 20, Code of Federal Regulation (or any successor regulation).

(c) TECHNICAL CORRECTIONS.—The Secretary of Labor shall establish a process by which employers seeking certification under section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), as amended by section 524(b), may make technical corrections to applications in order to avoid requiring employers to conduct additional recruitment to correct an initial technical error. A technical error shall include any error that would not have a material effect on the validity of the employer's recruitment of able, willing, and qualified United States workers.

(d) ADMINISTRATIVE APPEALS.—Motions to reconsider, and administrative appeals of, a denial of a permanent labor certification application, shall be decided by the Secretary of Labor not later than 60 days after the date of the filing of such motion or such appeal.

(e) APPLICATIONS UNDER PREVIOUS SYSTEM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall process and issue decisions on all applications for permanent alien labor certification that were filed prior to March 28, 2005.

(f) EFFECTIVE DATE.—The provisions of this section shall take effect 90 days after the date of enactment of this Act, whether or not the Secretary of Labor has amended the regulations at part 656 of title 20, Code of Federal Regulation to implement such changes.

SEC. 531. COMPLETION OF BACKGROUND AND SECURITY CHECKS.

Section 103 (8 U.S.C. 1103) is amended by adding at the end the following new subsection:

''(i) REQUIREMENT FOR BACKGROUND CHECKS.—Notwithstanding any other provision of law, until appropriate background and security checks, as determined by the Secretary of Homeland Security, have been completed, and the information provided to and assessed by the official with jurisdiction to grant or issue the benefit or documentation, on an in camera basis as may be necessary with respect to classified, law enforcement, or other information that cannot be disclosed publicly, the Secretary of Homeland Security, the Attorney General, or any court may not—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.

''(j) REQUIREMENT TO RESOLVE FRAUD ALLEGATIONS.—Notwithstanding any other provision of law, until any suspected or alleged fraud relating to the granting of any status (including the granting of adjustment of status), relief, protection from removal, or other benefit under this Act has been investigated and resolved, the Secretary of Homeland Security and the Attorney General may not be required to—

''(1) grant or order the grant of adjustment of status of an alien to that of an alien lawfully admitted for permanent residence;

''(2) grant or order the grant of any other status, relief, protection from removal, or other benefit under the immigration laws; or

''(3) issue any documentation evidencing or related to such grant by the Secretary, the Attorney General, or any court.

''(k) PROHIBITION OF JUDICIAL ENFORCEMENT.—Notwithstanding any other provision of law, no court may require any act described in subsection (i) or (j) to be completed by a certain time or award any relief for the failure to complete such acts.''.

SEC. 532. VISA REVALIDATION.

(a) IN GENERAL.—Section 222 (8 U.S.C. 1202) is amended by adding at the end the following:

''(i) The Secretary of State shall permit an alien granted a nonimmigrant visa under subparagraph E, H, I, L, O, or P of section 101(a)(15) to apply for a renewal of such visa within the United States if—

''(1) such visa expired during the 12-month period ending on the date of such application;

''(2) the alien is seeking a nonimmigrant visa under the same subparagraph under which the alien had previously received a visa; and

''(3) the alien has complied with the immigration laws and regulations of the United States.''.

(b) CONFORMING AMENDMENT.—Section 222(h) of such Act is amended, in the matter preceding subparagraph (1), by inserting ''and except as provided under subsection (i),'' after ''Act''.

Subtitle C—Preservation of Immigration Benefits for Hurricane Katrina Victims

SEC. 541. SHORT TITLE.

This subtitle may be cited as the ''Hurricane Katrina Victims Immigration Benefits Preservation Act''.

SEC. 542. DEFINITIONS.

In this subtitle:

(1) APPLICATION OF DEFINITIONS FROM THE IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this subtitle, the definitions in the Immigration and Nationality Act shall apply in the administration of this subtitle.

(2) DIRECT RESULT OF A SPECIFIED HURRICANE DISASTER.—The term ''direct result of a specified hurricane disaster''—

(A) means physical damage, disruption of communications or transportation, forced or voluntary evacuation, business closures, or other circumstances directly caused by Hurricane Katrina (on or after August 26, 2005) or Hurricane Rita (on or after September 21, 2005); and

(B) does not include collateral or consequential economic effects in or on the United States or global economies.

SEC. 543. SPECIAL IMMIGRANT STATUS.

(a) PROVISION OF STATUS.—

(1) IN GENERAL.—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)), if the alien—

(A) files with the Secretary a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

(B) is otherwise eligible to receive an immigrant visa; and

(C) is otherwise admissible to the United States for permanent residence.

(2) INAPPLICABLE PROVISION.—In determining admissibility under paragraph (1)(C), the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

(b) ALIENS DESCRIBED.—

(1) PRINCIPAL ALIENS.—An alien is described in this subsection if—

(A) the alien was the beneficiary of—

(i) a petition that was filed with the Secretary on or before August 26, 2005—

(I) under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) to classify the alien as a family-sponsored immigrant under section 203(a) of such Act (8 U.S.C. 1153(a)) or as an employment-based immigrant under section 203(b) of such Act (8 U.S.C. 1153(b)); or

(II) under section 214(d) of such Act (8 U.S.C. 1184(d)) to authorize the issuance of a nonimmigrant visa to the alien under section 101(a)(15)(K) of such Act (8 U.S.C. 1101(a)(15)(K)); or

(ii) an application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)) that was filed under regulations of the Secretary of Labor on or before such date; and

(B) such petition or application was revoked or terminated (or otherwise rendered null), before or after its approval, solely due to—

(i) the death or disability of the petitioner, applicant, or alien beneficiary as a direct result of a specified hurricane disaster; or

(ii) loss of employment as a direct result of a specified hurricane disaster.

(2) SPOUSES AND CHILDREN.—

(A) IN GENERAL.—An alien is described in this subsection if—

(i) the alien, as of August 26, 2005, was the spouse or child of a principal alien described in paragraph (1); and

(ii) the alien—

(I) is accompanying such principal alien; or

(II) is following to join such principal alien not later than August 26, 2007.

(B) CONSTRUCTION.—In construing the terms ''accompanying'' and ''following to join'' in subparagraph (A)(ii), the death of a principal alien described in paragraph (1)(B)(i) shall be disregarded.

(3) GRANDPARENTS OR LEGAL GUARDIANS OF ORPHANS.—An alien is described in this subsection if the alien is a grandparent or legal guardian of a child whose parents died as a direct result of a specified hurricane disaster, if either of the deceased parents was, as of August 26, 2005, a citizen or national of the United States or an alien lawfully admitted for permanent residence in the United States.

(c) PRIORITY DATE.—Immigrant visas made available under this section shall be issued to aliens in the order in which a petition on behalf of each such alien is filed with the Secretary under subsection (a)(1), except that if an alien was assigned a priority date with respect to a petition described in subsection (b)(1)(A)(i), the alien may maintain that priority date.

(d) NUMERICAL LIMITATIONS.—In applying sections 201 through 203 of the Immigration and Nationality Act (8 U.S.C. 1151–1153) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants who are not described in subparagraph (A), (B), (C), or (K) of section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)).

SEC. 544. EXTENSION OF FILING OR REENTRY DEADLINES.

(a) AUTOMATIC EXTENSION OF NONIMMIGRANT STATUS.—

(1) IN GENERAL.—Notwithstanding section 214 of the Immigration and Nationality Act (8 U.S.C. 1184), an alien described in paragraph (2) who was lawfully present in the United States as a nonimmigrant on August 26, 2005, may, unless otherwise determined by the Secretary in the Secretary's discretion, lawfully remain in the United States in the same nonimmigrant status until the later of—

(A) the date on which such lawful nonimmigrant status would have otherwise terminated absent the enactment of this subsection; or

(B) 1 year after the death or onset of disability described in paragraph (2).

(2) ALIENS DESCRIBED.—

(A) PRINCIPAL ALIENS.—An alien is described in this paragraph if the alien was disabled as a direct result of a specified hurricane disaster.

(B) SPOUSES AND CHILDREN.—An alien is described in this paragraph if the alien, as of August 26, 2005, was the spouse or child of—

(i) a principal alien described in subparagraph (A); or

(ii) an alien who died as a direct result of a specified hurricane disaster.

(3) AUTHORIZED EMPLOYMENT.—During the period in which a principal alien or alien spouse is in lawful nonimmigrant status under paragraph (1), the alien may be provided an ''employment authorized'' endorsement or other appropriate document signifying authorization of employment.

(b) NEW DEADLINES FOR EXTENSION OR CHANGE OF NONIMMIGRANT STATUS.—

(1) FILING DELAYS.—

(A) IN GENERAL.—If an alien, who was lawfully present in the United States as a nonimmigrant on August 26, 2005, was prevented from filing a timely application for an extension or change of nonimmigrant status as a direct result of a specified hurricane disaster, the alien's application may be considered timely filed if it is filed not later 1 year after the application would have otherwise been due.

(B) CIRCUMSTANCES PREVENTING TIMELY ACTION.—For purposes of subparagraph (A), circumstances preventing an alien from timely acting are—

(i) office closures;

(ii) mail or courier service cessations or delays;

(iii) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(iv) mandatory evacuation and relocation; or

(v) other circumstances, including medical problems or financial hardship.

(2) DEPARTURE DELAYS.—

(A) IN GENERAL.—If an alien, who was lawfully present in the United States as a nonimmigrant on August 26, 2005, is unable to timely depart the United States as a direct result of a specified hurricane disaster, the alien shall not be considered to have been unlawfully present in the United States during the period beginning on August 26, 2005, and ending on the date of the alien's departure, if such departure occurred on or before February 28, 2006.

(B) CIRCUMSTANCES PREVENTING TIMELY ACTION.—For purposes of subparagraph (A), circumstances preventing an alien from timely acting are—

(i) office closures;

(ii) transportation cessations or delays;

(iii) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(iv) mandatory evacuation and relocation; or

(v) other circumstances, including medical problems or financial hardship.

(c) DIVERSITY IMMIGRANTS.—Section 204(a)(1)(I)(ii)(II) (8 U.S.C. 1154(a)(1)(I)(ii)(II)), is amended to read as follows:

''(II) An immigrant visa made available under subsection 203(c) for fiscal year 1998, or for a subsequent fiscal year, may be issued, or adjustment of status under section 245(a) based upon the availability of such visa may be granted, to an eligible qualified alien who has properly applied for such visa or adjustment in the fiscal year for which the alien was selected notwithstanding the end of such fiscal year. Such visa or adjustment of status shall be counted against the worldwide level set forth in subsection 201(e) for the fiscal year for which the alien was selected.''.

(d) EXTENSION OF FILING PERIOD.—If an alien is unable to timely file an application to register or reregister for Temporary Protected Status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a) as a direct result of a specified hurricane disaster, the alien's application may be considered timely filed if it is filed not later than 90 days after it otherwise would have been due.

(e) VOLUNTARY DEPARTURE.—

(1) IN GENERAL.—Notwithstanding section 240B of the Immigration and Nationality Act (8 U.S.C. 1229c), if a period for voluntary departure under such section expired during the period beginning on August 26, 2005, and ending on December 31, 2005, and the alien was unable to voluntarily depart before the expiration date as a direct result of a specified hurricane disaster, such voluntary departure period is deemed extended for an additional 60 days.

(2) CIRCUMSTANCES PREVENTING DEPARTURE.—For purposes of this subsection, circumstances preventing an alien from voluntarily departing the United States are—

(A) office closures;

(B) transportation cessations or delays;

(C) other closures, cessations, or delays affecting case processing or travel necessary to satisfy legal requirements;

(D) mandatory evacuation and removal; and

(E) other circumstances, including medical problems or financial hardship.

(f) CURRENT NONIMMIGRANT VISA HOLDERS.—

(1) IN GENERAL.—An alien, who was lawfully present in the United States on August 26, 2005, as a nonimmigrant under section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) and lost employment as a direct result of a specified hurricane disaster may accept new employment upon the filing by a prospective employer of a new petition on behalf of such nonimmigrant not later than August 26, 2006.

(2) CONTINUATION OF EMPLOYMENT AUTHORIZATION.—Employment authorization shall continue for such alien until the new petition is adjudicated. If the new petition is denied, such employment shall cease.

(3) SAVINGS PROVISION.—Nothing in this subsection shall be construed to limit eligibility for portability under section 214(n) of the Immigration and Nationality Act (8 U.S.C. 1184(n)).

SEC. 545. HUMANITARIAN RELIEF FOR CERTAIN SURVIVING SPOUSES AND CHILDREN.

(a) TREATMENT AS IMMEDIATE RELATIVES.—

(1) SPOUSES.—Notwithstanding the second sentence of section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), in the case of an alien who was the spouse of a citizen of the United States at the time of the citizen's death and was not legally separated from the citizen at the time of the citizen's death, if the citizen died as a direct result of a specified hurricane disaster, the alien (and each child of the alien) may be considered, for purposes of section 201(b) of such Act, to remain an immediate relative after the date of the citizen's death if the alien files a petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after such date and only until the date on which the alien remarries. For purposes of such section 204(a)(1)(A)(ii), an alien granted relief under this paragraph shall be considered an alien spouse described in the second sentence of section 201(b)(2)(A)(i) of such Act.

(2) CHILDREN.—

(A) IN GENERAL.—In the case of an alien who was the child of a citizen of the United States at the time of the citizen's death, if

the citizen died as a direct result of a specified hurricane disaster, the alien may be considered, for purposes of section 201(b) of the Immigration and Nationality Act (8 U.S.C. 1151(b)), to remain an immediate relative after the date of the citizen's death (regardless of subsequent changes in age or marital status), but only if the alien files a petition under subparagraph (B) not later than 2 years after such date.

(B) PETITIONS.—An alien described in subparagraph (A) may file a petition with the Secretary for classification of the alien under section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)), which shall be considered a petition filed under section 204(a)(1)(A) of such Act (8 U.S.C. 1154(a)(1)(A)).

(b) SPOUSES, CHILDREN, UNMARRIED SONS AND DAUGHTERS OF LAWFUL PERMANENT RESIDENT ALIENS.—

(1) IN GENERAL.—Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is included in a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(2)) that was filed by such alien before August 26, 2005, may be considered (if the spouse, child, son, or daughter has not been admitted or approved for lawful permanent residence by such date) a valid petitioner for preference status under such section with the same priority date as that assigned before the death described in paragraph (3)(A). No new petition shall be required to be filed. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(2) SELF-PETITIONS.—Any spouse, child, or unmarried son or daughter of an alien described in paragraph (3) who is not a beneficiary of a petition for classification as a family-sponsored immigrant under section 203(a)(2) of the Immigration and Nationality Act may file a petition for such classification with the Secretary, if the spouse, child, son, or daughter was present in the United States on August 26, 2005. Such spouse, child, son, or daughter may be eligible for deferred action and work authorization.

(3) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

(A) died as a direct result of a specified hurricane disaster; and

(B) on the day of such death, was lawfully admitted for permanent residence in the United States.

(c) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES AND CHILDREN OF EMPLOYMENT-BASED IMMIGRANTS.—

(1) IN GENERAL.—Any alien who was, on August 26, 2005, the spouse or child of an alien described in paragraph (2), and who applied for adjustment of status before the death described in paragraph (2)(A), may have such application adjudicated as if such death had not occurred.

(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

(A) died as a direct result of a specified hurricane disaster; and

(B) on the day before such death, was—

(i) an alien lawfully admitted for permanent residence in the United States by reason of having been allotted a visa under section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)); or

(ii) an applicant for adjustment of status to that of an alien described in clause (i), and admissible to the United States for permanent residence.

(d) APPLICATIONS BY SURVIVING SPOUSES AND CHILDREN OF REFUGEES AND ASYLEES.—

(1) IN GENERAL.—Any alien who, on August 26, 2005, was the spouse or child of an alien described in paragraph (2), may have his or her eligibility to be admitted under section 207(c)(2)(A) or 208(b)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)(A), 1158(b)(3)(A)) considered as if the alien's death had not occurred.

(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

(A) died as a direct result of a specified hurricane disaster; and

(B) on the day before such death, was—

(i) an alien admitted as a refugee under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157); or

(ii) granted asylum under section 208 of such Act (8 U.S.C. 1158).

(e) WAIVER OF PUBLIC CHARGE GROUNDS.—In determining the admissibility of any alien accorded an immigration benefit under this section, the grounds for inadmissibility specified in section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) shall not apply.

SEC. 546. RECIPIENT OF PUBLIC BENEFITS.

An alien shall not be inadmissible under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) or deportable under section 237(a)(5) of such Act (8 U.S.C. 1227(a)(5)) on the basis that the alien received any public benefit as a direct result of a specified hurricane disaster.

SEC. 547. AGE-OUT PROTECTION.

In administering the immigration laws, the Secretary and the Attorney General may grant any application or benefit notwithstanding the applicant or beneficiary (including a derivative beneficiary of the applicant or beneficiary) reaching an age that would render the alien ineligible for the benefit sought, if the alien's failure to meet the age requirement occurred as a direct result of a specified hurricane disaster.

SEC. 548. EMPLOYMENT ELIGIBILITY VERIFICATION.

(a) IN GENERAL.—The Secretary may suspend or modify any requirement under section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) or subtitle A of title IV of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note), either generally or with respect to particular persons, class of persons, geographic areas, or economic sectors, to the extent to which the Secretary determines necessary or appropriate to respond to national emergencies or disasters.

(b) NOTIFICATION.—If the Secretary suspends or modifies any requirement under section 274A(b) of the Immigration and Nationality Act pursuant to subsection (a), the Secretary shall send notice of such decision, including the reasons for the suspension or modification, to—

(1) the Committee on the Judiciary of the Senate; and

(2) the Committee of the Judiciary of the House of Representatives.

(c) SUNSET DATE.—The authority under subsection (a) shall expire on August 26, 2008.

SEC. 549. NATURALIZATION.

The Secretary may, with respect to applicants for naturalization in any district of the United States Citizenship and Immigration Services affected by a specified hurricane disaster, administer the provisions of Title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) notwithstanding any provision of such title relating to the jurisdiction of an eligible court to administer the oath of allegiance, or requiring residence to be maintained or any action to be taken in any specific district or State within the United States.

SEC. 550. DISCRETIONARY AUTHORITY.

The Secretary or the Attorney General may waive violations of the immigration laws committed, on or before March 1, 2006, by an alien—

(1) who was in lawful status on August 26, 2005; and

(2) whose failure to comply with the immigration laws was a direct result of a specified hurricane disaster.

SEC. 551. EVIDENTIARY STANDARDS AND REGULATIONS.

The Secretary shall establish appropriate evidentiary standards for demonstrating, for purposes of this subtitle, that a specified hurricane disaster directly resulted in—

(1) death;

(2) disability; or

(3) loss of employment due to physical damage to, or destruction of, a business.

SEC. 552. IDENTIFICATION DOCUMENTS.

(a) TEMPORARY IDENTIFICATION.—The Secretary shall have the authority to instruct any Federal agency to issue temporary identification documents to individuals affected by a specified hurricane disaster. Such documents shall be acceptable for purposes of identification under any Federal law or regulation until August 26, 2006.

(b) ISSUANCE.—An agency may not issue identity documents under this section after January 1, 2006.

(c) NO COMPULSION TO ACCEPT OR CARRY IDENTIFICATION DOCUMENTS.—Nationals of the United States shall not be compelled to accept or carry documents issued under this section.

(d) NO PROOF OF CITIZENSHIP.—Identity documents issued under this section shall not constitute proof of citizenship or immigration status.

SEC. 553. WAIVER OF REGULATIONS.

The Secretary shall carry out the provisions of this subtitle as expeditiously as possible. The Secretary is not required to promulgate regulations before implementing this subtitle. The requirements of chapter 5 of title 5, United States Code (commonly referred to as the ''Administrative Procedure Act'') or any other law relating to rule making, information collection, or publication in the Federal Register, shall not apply to any action to implement this subtitle to the extent the Secretary of Homeland Security, the Secretary of Labor, or the Secretary of State determine that compliance with such requirement would impede the expeditious implementation of such Act.

SEC. 554. NOTICES OF CHANGE OF ADDRESS.

(a) IN GENERAL.—If a notice of change of address otherwise required to be submitted to the Secretary by an alien described in subsection (b) relates to a change of address occurring during the period beginning on August 26, 2005, and ending on the date of the enactment of this Act, the alien may submit such notice.

(b) ALIENS DESCRIBED.—An alien is described in this subsection if the alien—

(1) resided, on August 26, 2005, within a district of the United States that was declared by the President to be affected by a specified hurricane disaster; and

(2) is required, under section 265 of the Immigration and Nationality Act (8 U.S.C. 1305) or any other provision of law, to notify the Secretary in writing of a change of address.

SEC. 555. FOREIGN STUDENTS AND EXCHANGE PROGRAM PARTICIPANTS.

(a) IN GENERAL.—The nonimmigrant status of an alien described in subsection (b) shall be deemed to have been maintained during the period beginning on August 26, 2005, and ending on September 15, 2006, if, on September 15, 2006, the alien is enrolled in a course of study, or participating in a designated exchange visitor program, sufficient to satisfy the terms and conditions of the alien's nonimmigrant status on August 26, 2005.

(b) ALIENS DESCRIBED.—An alien is described in this subsection if the alien—

(1) was, on August 26, 2005, lawfully present in the United States in the status of a nonimmigrant described in subparagraph (F),

(J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)); and

(2) fails to satisfy a term or condition of such status as a direct result of a specified hurricane disaster.

TITLE VI—WORK AUTHORIZATION AND LEGALIZATION OF UNDOCUMENTED INDIVIDUALS

Subtitle A—Access to Earned Adjustment and Mandatory Departure and Reentry

SEC. 601. ACCESS TO EARNED ADJUSTMENT AND MANDATORY DEPARTURE AND REENTRY.

(a) SHORT TITLE.—This section may be cited as the ''Immigrant Accountability Act of 2006''.

(b) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

''SEC. 245B. ACCESS TO EARNED ADJUSTMENT.

''(a) ADJUSTMENT OF STATUS.—

''(1) PRINCIPAL ALIENS.—Notwithstanding any other provision of law, including section 244(h) of this Act, the Secretary of Homeland Security shall adjust to the status of an alien lawfully admitted for permanent residence, an alien who satisfies the following requirements:

''(A) APPLICATION.—The alien shall file an application establishing eligibility for adjustment of status and pay the fine required under subsection (m) and any additional amounts owed under that subsection.

''(B) CONTINUOUS PHYSICAL PRESENCE.—

''(i) IN GENERAL.—The alien shall establish that the alien—

''(I) was physically present in the United States on or before the date that is 5 years before April 5, 2006;

''(II) was not legally present in the United States on April 5, 2006, under any classification set forth in section 101(a)(15); and

''(III) did not depart from the United States during the 5-year period ending on April 5, 2006, except for brief, casual, and innocent departures.

''(ii) LEGALLY PRESENT.—For purposes of this subparagraph, an alien who has violated any conditions of his or her visa shall be considered not to be legally present in the United States.

''(C) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien shall establish that the alien is not inadmissible under section 212(a) except for any provision of that section that is waived under subsection (b) of this section.

''(D) EMPLOYMENT IN UNITED STATES.—

''(i) IN GENERAL.—The alien shall have been employed in the United States, in the aggregate, for—

''(I) at least 3 years during the 5-year period ending on April 5, 2006; and

''(II) at least 6 years after the date of enactment of the Immigrant Accountability Act of 2006.

''(ii) EXCEPTIONS.—

''(I) The employment requirement in clause (i)(I) shall not apply to an individual who is under 20 years of age on the date of enactment of the Immigrant Accountability Act of 2006.

''(II) The employment requirement in clause (i)(II) shall be reduced for an individual who cannot demonstrate employment based on a physical or mental disability or as a result of pregnancy.

''(III) The employment requirement in clause (i)(II) shall be reduced for an individual who is under 20 years of age on the date of enactment of the Immigrant Accountability Act of 2006 by a period of time equal to the time period beginning on such date of enactment and ending on the date on which the individual reaches 20 years of age.

''(IV) The employment requirements in clause (i) shall be reduced by 1 year for each year of full time post-secondary study in the United States during the relevant period.

''(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.

''(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 non-relatives 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). Once the burden is met, the burden shall shift to the Secretary of Homeland Security to disprove the alien's evidence with a showing which negates the reasonableness of the inference to be drawn from the evidence.

''(E) PAYMENT OF INCOME TAXES.—

''(i) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien establishes the payment of any applicable Federal tax liability by establishing that—

''(I) no such tax liability exists;

''(II) all outstanding liabilities have been paid; or

''(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

''(ii) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of clause (i), the term 'applicable Federal tax liability' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required by subparagraph (D)(i) for which the statutory period for assessment of any deficiency for such taxes has not expired.

''(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subparagraph.

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

''(I) no such tax liability exists;

''(II) all outstanding liabilities have been met; or

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

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

''(F) BASIC CITIZENSHIP SKILLS.—

''(i) IN GENERAL.—Except as provided in clause (ii), the alien shall demonstrate that the alien meets the requirements of section 312(a) (relating to English proficiency and understanding of United States history and Government).

''(ii) EXCEPTIONS.—

''(I) MANDATORY.—The requirements of clause (i) shall not apply to any person who is unable to comply with those requirements because of a physical or developmental disability or mental impairment.

''(II) DISCRETIONARY.—The Secretary of Homeland Security may waive all or part of the requirements of clause (i) in the case of an alien who is 65 years of age or older as of the date of the filing of the application for adjustment of status.

''(G) SECURITY AND LAW ENFORCEMENT CLEARANCES.—The alien shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a security clearance determination by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

''(H) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) that such alien has registered under that Act.

''(I) ADJUSTMENT OF STATUS.—The Secretary may not adjust the status of an alien under this section to that of lawful permanent resident until the Secretary determines that the priority dates have become current for the class of aliens whose family-based or employment-based petitions for permanent residence were pending on the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(2) SPOUSES AND CHILDREN.—

''(A) IN GENERAL.—

''(i) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if otherwise eligible under subparagraph (B), adjust the status to that of a lawful permanent resident for—

''(I) the spouse, or child who was under 21 years of age on the date of enactment of the Immigrant Accountability Act of 2006, of an alien who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1); or

''(II) an alien who, within 5 years preceding the date of enactment of the Immigrant Accountability Act of 2006, was the spouse or child of an alien who adjusts status to that of a permanent resident under paragraph (1), if—

''(aa) the termination of the qualifying relationship was connected to domestic violence; or

''(bb) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status or is eligible to adjust status to that of a permanent resident under paragraph (1).

''(ii) APPLICATION OF OTHER LAW.—In acting on applications filed under this paragraph with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

''(B) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—In establishing admissibility to the United States, the spouse or child described in subparagraph (A) shall establish that they are not inadmissible under section 212(a), except for any provision of that section that is waived under subsection (b) of this section.

''(C) SECURITY AND LAW ENFORCEMENT CLEARANCE.—The spouse or child, if that child is 14 years of age or older, described in subparagraph (A) shall submit fingerprints in accordance with procedures established by the Secretary of Homeland Security. Such fingerprints shall be submitted to relevant Federal agencies to be checked against existing databases for information relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status under this subsection. The relevant Federal agencies shall work to ensure that such clearances are completed within 90 days of the submission of fingerprints. An appeal of a denial by the Secretary of Homeland Security shall be processed through the Department of Homeland Security.

''(3) NONAPPLICABILITY OF NUMERICAL LIMITATIONS.—When an alien is granted lawful permanent resident status under this subsection, the number of immigrant visas authorized to be issued under any provision of this Act shall not be reduced.

''(b) GROUNDS OF INADMISSIBILITY.—

''(1) APPLICABLE PROVISIONS.—In the determination of an alien's admissibility under paragraphs (1)(C) and (2) of subsection (a), the following provisions of section 212(a) shall apply and may not be waived by the Secretary of Homeland Security under paragraph (3)(A):

''(A) Paragraph (1) (relating to health).

''(B) Paragraph (2) (relating to criminals).

''(C) Paragraph (3) (relating to security and related grounds).

''(D) Subparagraphs (A) and (C) of paragraph (10) (relating to polygamists and child abductors).

''(2) GROUNDS OF INADMISSIBILITY NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7), (9) (other than subparagraph (C)(i)(II)), and (10)(B) of section 212(a) shall not apply to an alien who is applying for adjustment of status under subsection (a).

''(3) WAIVER OF OTHER GROUNDS.—

''(A) IN GENERAL.—Except as provided in paragraph (1), the Secretary of Homeland Security may waive any provision of section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or when it is otherwise in the public interest.

''(B) CONSTRUCTION.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security, other than under this subparagraph, to waive the provisions of section 212(a).

''(4) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(4) if the alien establishes a history of employment in the United States evidencing self-support without public cash assistance.

''(5) SPECIAL RULE FOR INDIVIDUALS WHERE THERE IS NO COMMERCIAL PURPOSE.—An alien is not ineligible for adjustment of status under subsection (a) by reason of a ground of inadmissibility under section 212(a)(6)(E) if the alien establishes that the action referred to in that section was taken for humanitarian purposes, to ensure family unity, or was otherwise in the public interest.

''(6) APPLICABILITY OF OTHER PROVISIONS.—Section 241(a)(5) and section 240B(d) shall not apply with respect to an alien who is applying for adjustment of status under subsection (a).

''(7) 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 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) prior to April 7, 2006,

and—

''(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

''(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or

''(iii) the alien's departure from the United States now 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.

''(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(i) until such time as employment authorization under subparagraph (A) is denied.

''(2) DOCUMENT OF AUTHORIZATION.—The Secretary of Homeland Security shall provide each alien described in paragraph (1) with a counterfeit-resistant document of authorization that—

''(A) meets all current requirements established by the Secretary of Homeland Security for travel documents, including the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note); and

''(B) reflects the benefits and status set forth in paragraph (1).

''(3) SECURITY AND LAW ENFORCEMENT CLEARANCE.—Before an alien is granted employment authorization or permission to travel under paragraph (1), the alien shall be required to undergo a name check against existing databases for information relating to criminal, national security, or other law enforcement actions. The relevant Federal agencies shall work to ensure that such name checks are completed not later than 90 days after the date on which the name check is requested.

''(4) TERMINATION OF PROCEEDINGS.—An alien in removal proceedings who establishes prima facie eligibility for adjustment of status under subsection (a) shall be entitled to termination of the proceedings pending the outcome of the alien's application, unless the removal proceedings are based on criminal or national security grounds.

''(e) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise provided in this section, no Federal agency or bureau, nor any officer or employee of such agency or bureau, may—

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

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

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

''(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security and the Secretary of State shall provide the information furnished pursuant to an application filed under paragraph (1) or (2) of subsection (a), and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a

national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

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

''(f) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person to—

''(i) file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States.

''(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), any alien or other entity (including an employer or union) that submits an employment record that contains incorrect data that the alien used in order to obtain such employment, shall not have violated this subsection.

''(g) INELIGIBILITY FOR PUBLIC BENEFITS.—For purposes of section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613), an alien whose status has been adjusted in accordance with subsection (a) shall not be eligible for any Federal means-tested public benefit unless the alien meets the alien eligibility criteria for such benefit under title IV of such Act (8 U.S.C. 1601 et seq.).

''(h) RELATIONSHIPS OF APPLICATION TO CERTAIN ORDERS.—

''(1) IN GENERAL.—An alien who is present in the United States and has been ordered excluded, deported, removed, or to depart voluntarily from the United States or is subject to reinstatement of removal under any provision of this Act may, notwithstanding such order, apply for adjustment of status under subsection (a). Such an alien shall not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal or voluntary departure order. If the Secretary of Homeland Security grants the application, the order shall be canceled. If the Secretary of Homeland Security renders a final administrative decision to deny the application, such order shall be effective and enforceable. Nothing in this paragraph shall affect the review or stay of removal under subsection (j).

''(2) STAY OF REMOVAL.—The filing of an application described in paragraph (1) shall stay the removal or detainment of the alien pending final adjudication of the application, unless the removal or detainment of the alien is based on criminal or national security grounds.

''(i) APPLICATION OF OTHER PROVISIONS.—Nothing in this section shall preclude an alien who may be eligible to be granted adjustment of status under subsection (a) from seeking such status under any other provision of law for which the alien may be eligible.

''(j) ADMINISTRATIVE AND JUDICIAL REVIEW.—

''(1) IN GENERAL.—Except as provided in this subsection, there shall be no administrative or judicial review of a determination respecting an application for adjustment of status under subsection (a).

''(2) ADMINISTRATIVE REVIEW.—

''(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary of Homeland Security shall establish an appellate authority to provide for a single level of administrative appellate review of a determination respecting an application for adjustment of status under subsection (a).

''(B) STANDARD FOR REVIEW.—Administrative appellate review referred to in subparagraph (A) shall be based solely upon the administrative record established at the time of the determination on the application and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

''(3) JUDICIAL REVIEW.—

''(A) DIRECT REVIEW.—A person whose application for adjustment of status under subsection (a) is denied after administrative appellate review under paragraph (2) may seek review of such denial, in accordance with chapter 7 of title 5, United States Code, before the United States district court for the district in which the person resides.

''(B) REVIEW AFTER REMOVAL PROCEEDINGS.—There shall be judicial review in the Federal courts of appeal of the denial of an application for adjustment of status under subsection (a) in conjunction with judicial review of an order of removal, deportation, or exclusion, but only if the validity of the denial has not been upheld in a prior judicial proceeding under subparagraph (A). Notwithstanding any other provision of law, the standard for review of such a denial shall be governed by subparagraph (C).

''(C) STANDARD FOR JUDICIAL REVIEW.—Judicial review of a denial of an application under this section shall be based solely upon the administrative record established at the time of the review. The findings of fact and other determinations contained in the record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record, considered as a whole.

''(4) STAY OF REMOVAL.—Aliens seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered establishing ineligibility under this section, unless such removal is based on criminal or national security grounds.

''(k) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—During the 12 months following the issuance of final regulations in accordance with subsection (o), the Secretary of Homeland Security, in cooperation with approved entities, approved by the Secretary of Homeland Security, shall broadly disseminate information respecting adjustment of status under this section and the requirements to be satisfied to obtain such status. The Secretary of Homeland Security shall also disseminate information to employers and labor unions to advise them of the rights and protections available to them and to workers who file applications under this section. Such information shall be broadly disseminated, in the languages spoken by the top 15 source countries of the aliens who would qualify for adjustment of status under this section, including to television, radio, and print media such aliens would have access to.

''(l) EMPLOYER PROTECTIONS.—

''(1) IMMIGRATION STATUS OF ALIEN.—Employers of aliens applying for adjustment of status under this section shall not be subject to civil and criminal tax liability relating directly to the employment of such alien.

''(2) PROVISION OF EMPLOYMENT RECORDS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for adjustment of status under this section or any other application or petition pursuant to other provisions of the immigration laws, shall not be subject to civil and criminal liability pursuant to section 274A for employing such unauthorized aliens.

''(3) APPLICABILITY OF OTHER LAW.—Nothing in this subsection shall be used to shield an employer from liability pursuant to section 274B or any other labor and employment law provisions.

''(m) AUTHORIZATION OF FUNDS; FINES.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Homeland Security such sums as are necessary to commence the processing of applications filed under this section.

''(2) FINE.—An alien who files an application under this section shall pay a fine commensurate with levels charged by the Department of Homeland Security for other applications for adjustment of status.

''(3) ADDITIONAL AMOUNTS OWED.—Prior to the adjudication of an application for adjustment of status filed under this section, the alien shall pay an amount equaling $2,000, but such amount shall not be required from an alien under the age of 18.

''(4) USE OF AMOUNTS COLLECTED.—The Secretary of Homeland Security shall deposit payments received under paragraphs (2) and (3) in the Immigration Examinations Fee Account, and these payments in such account shall be available, without fiscal year limitation, such that—

''(A) 80 percent of such funds shall be available to the Department of Homeland Security for border security purposes;

''(B) 10 percent of such funds shall be available to the Department of Homeland Security for implementing and processing applications under this section; and

''(C) 10 percent of such funds shall be available to the Department of Homeland Security and the Department of State to cover administrative and other expenses incurred in connection with the review of applications filed by immediate relatives of aliens applying for adjustment of status under this section.

''(5) STATE IMPACT ASSISTANCE FEE.—

''(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, an alien shall submit, at the time the alien files an application under this section, a State impact assistance fee equal to—

''(i) $750 for the principal alien; and

''(ii) $100 for the spouse and each child described in subsection (a)(2).

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

''(n) MANDATORY DEPARTURE AND REENTRY.—Any alien who was physically present in the United States on January 7, 2004, who seeks to adjust status under this section, but does not satisfy the requirements of subparagraph (B) or (D) of subsection (a)(1), shall be eligible to depart the United States and to seek admission as a nonimmigrant or an immigrant alien described in section 245C.

''(o) ISSUANCE OF REGULATIONS.—Not later than 120 days after the date of enactment of the Immigrant Accountability Act of 2006, the Secretary of Homeland Security shall issue regulations to implement this section.''.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 245A the following:

''245B. Access to Earned Adjustment''.

(c) MANDATORY DEPARTURE AND REENTRY.—

(1) IN GENERAL.—Chapter 5 of title II (8 U.S.C. 1255 et seq.), as amended by subsection (b)(1), is further amended by inserting after section 245B the following:

''SEC. 245C. MANDATORY DEPARTURE AND REENTRY.

''(a) IN GENERAL.—The Secretary of Homeland Security may grant Deferred Mandatory Departure status to aliens who are in the United States illegally to allow such aliens time to depart the United States and to seek admission as a nonimmigrant or immigrant alien.

''(b) REQUIREMENTS.—Notwithstanding section 244(h), an alien desiring an adjustment of status under subsection (a) shall meet the following requirements:

''(1) PRESENCE.—The alien shall establish that the alien—

''(A) was physically present in the United States on January 7, 2004;

''(B) has been continuously in the United States since such date, except for brief, casual, and innocent departures; and

''(C) was not legally present in the United States on that date under any classification set forth in section 101(a)(15).

''(2) EMPLOYMENT.—

''(A) IN GENERAL.—The alien shall establish that the alien—

''(i) was employed in the United States, whether full time, part time, seasonally, or self-employed, before January 7, 2004; and

''(ii) has been continuously employed in the United States since that date, except for brief periods of unemployment lasting not longer than 60 days.

''(B) EVIDENCE OF EMPLOYMENT.—

''(i) IN GENERAL.—An alien may conclusively establish employment status in compliance with subparagraph (A) by submitting to the Secretary of Homeland Security records demonstrating such employment maintained by—

''(I) the Social Security Administration, Internal Revenue Service, or by any other Federal, State, or local government agency;

''(II) an employer; or

''(III) a labor union, day labor center, or an organization that assists workers in matters related to employment.

''(ii) OTHER DOCUMENTS.—An alien who is unable to submit a document described in subclauses (I) through (III) of clause (i) may satisfy the requirement in subparagraph (A) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

''(I) bank records;

''(II) business records;

''(III) sworn affidavits from nonrelatives who have direct knowledge of the alien's work, 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

''(IV) remittance records.

''(iii) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in this subsection be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(iv) BURDEN OF PROOF.—An alien who is applying for adjustment of status under this section has the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements of this subsection. An alien may meet such burden of proof by producing sufficient evidence to demonstrate such employment as a matter of reasonable inference.

''(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.

''(3) ADMISSIBILITY.—

''(A) IN GENERAL.—The alien shall establish that such alien—

''(i) is admissible to the United States, except as provided as in (B); and

''(ii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(B) GROUNDS NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9)(B) of section 212(a) shall not apply.

''(C) WAIVER.—The Secretary of Homeland Security may waive any other provision of section 212(a), or a ground of ineligibility under paragraph (4), in the case of individual aliens for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

''(4) INELIGIBILITY.—

''(A) IN GENERAL.—The alien is ineligible for Deferred Mandatory Departure status if the alien—

''(i) 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 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) prior to April 7, 2006,

and—

''(i) demonstrates that the alien did not receive notice of removal proceedings in accordance with paragraph (1) or (2) of section 239(a); or

''(ii) establishes that the alien's failure to appear was due to exceptional circumstances beyond the control of the alien; or

''(iii) the alien's departure from the United States now 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.

''(5) MEDICAL EXAMINATION.—The alien may be required, at the alien's expense, to undergo such a medical examination (including a determination of immunization status) as is appropriate and conforms to generally accepted professional standards of medical practice.

''(6) TERMINATION.—The Secretary of Homeland Security may terminate an alien's Deferred Mandatory Departure status if—

''(A) the Secretary of Homeland Security determines that the alien was not in fact eligible for such status; or

''(B) the alien commits an act that makes the alien removable from the United States.

''(7) APPLICATION CONTENT AND WAIVER.—

''(A) APPLICATION FORM.—The Secretary of Homeland Security shall create an application form that an alien shall be required to complete as a condition of obtaining Deferred Mandatory Departure status.

''(B) CONTENT.—In addition to any other information that the Secretary requires to determine an alien's eligibility for Deferred Mandatory Departure, the Secretary shall require an alien to answer questions concerning the alien's physical and mental health, criminal history, gang membership, renunciation of gang affiliation, immigration history, involvement with groups or individuals that have engaged in terrorism, genocide, persecution, or who seek the overthrow of the United States Government, voter registration history, claims to United States citizenship, and tax history.

''(C) WAIVER.—The Secretary of Homeland Security shall require an alien to include with the application a waiver of rights that explains to the alien that, in exchange for the discretionary benefit of obtaining Deferred Mandatory Departure status, the alien agrees to waive any right to judicial review or to contest any removal action, other than on the basis of an application for asylum or restriction of removal pursuant to the provisions contained in section 208 or 241(b)(3), or under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a).

''(D) KNOWLEDGE.—The Secretary of Homeland Security shall require an alien to include with the application a signed certification in which the alien certifies that the alien has read and understood all of the questions and statements on the application form, and that the alien certifies under penalty of perjury under the laws of the United States that the application, and any evidence submitted with it, are all true and correct, and that the applicant authorizes the release of any information contained in the application and any attached evidence for law enforcement purposes.

''(c) IMPLEMENTATION AND APPLICATION TIME PERIODS.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall ensure that the application process is secure and incorporates antifraud protection. The Secretary of Homeland Security shall interview an alien to determine eligibility for Deferred Mandatory Departure status and shall utilize biometric authentication at time of document issuance.

''(2) INITIAL RECEIPT OF APPLICATIONS.—The Secretary of Homeland Security shall begin accepting applications for Deferred Mandatory Departure status not later than 3

months after the date on which the application form is first made available.

''(3) APPLICATION.—An alien must submit an initial application for Deferred Mandatory Departure status not later than 6 months after the date on which the application form is first made available. An alien that fails to comply with this requirement is ineligible for Deferred Mandatory Departure status. The provisions under subsections (e) and (f) of section 245B shall apply to applications filed under this section.

''(4) COMPLETION OF PROCESSING.—The Secretary of Homeland Security shall ensure that all applications for Deferred Mandatory Departure status are processed not later than 12 months after the date on which the application form is first made available.

''(d) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—An alien may not be granted Deferred Mandatory Departure status unless the alien submits biometric data in accordance with procedures established by the Secretary of Homeland Security. The Secretary of Homeland Security may not grant Deferred Mandatory Departure status until all appropriate background checks are completed to the satisfaction of the Secretary of Homeland Security.

''(e) ACKNOWLEDGMENT.—

''(1) IN GENERAL.—An alien who applies for Deferred Mandatory Departure status shall submit to the Secretary of Homeland Security—

''(A) an acknowledgment made in writing and under oath that the alien—

''(i) is unlawfully present in the United States and subject to removal or deportation, as appropriate, under this Act; and

''(ii) understands the terms of the terms of Deferred Mandatory Departure;

''(B) any Social Security account number or card in the possession of the alien or relied upon by the alien;

''(C) any false or fraudulent documents in the alien's possession.

''(2) USE OF INFORMATION.—None of the documents or other information provided in accordance with paragraph (1) may be used in a criminal proceeding against the alien providing such documents or information.

''(f) MANDATORY DEPARTURE.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall grant Deferred Mandatory Departure status to an alien who meets the requirements of this section for a period not to exceed 3 years.

''(2) REGISTRATION AT TIME OF DEPARTURE.—An alien granted Deferred Mandatory Departure shall—

''(A) depart from the United States before the expiration of the period of Deferred Mandatory Departure status;

''(B) register with the Secretary of Homeland Security at the time of departure; and

''(C) surrender any evidence of Deferred Mandatory Departure status at the time of departure.

''(3) APPLICATION FOR READMISSION.—

''(A) IN GENERAL.—An alien under this section may apply for admission to the United States as an immigrant or nonimmigrant while in the United States or from any location outside of the United States, but may not be granted admission until the alien has departed from the United States in accordance with paragraph (2).

''(B) APPROVAL.—The Secretary may approve an application under subparagraph (A) during the period in which the alien is present in the United States under Deferred Mandatory Departure status.

''(C) US–VISIT.—An alien in Deferred Mandatory Departure status who is seeking admission as a nonimmigrant or immigrant alien may exit the United States and immediately reenter the United States at any land port of entry at which the US–VISIT exit and entry system can process such alien for admission into the United States.

''(D) INTERVIEW REQUIREMENTS.—Notwithstanding any other provision of law, any admission requirement involving in-person interviews at a consulate of the United States shall be waived for aliens granted Deferred Mandatory Departure status under this section.

''(E) WAIVER OF NUMERICAL LIMITATIONS.—The numerical limitations under section 214 shall not apply to any alien who is admitted as a nonimmigrant under this paragraph.

''(4) EFFECT OF READMISSION ON SPOUSE OR CHILD.—The spouse or child of an alien granted Deferred Mandatory Departure and subsequently granted an immigrant or nonimmigrant visa before departing the United States shall be—

''(A) deemed to have departed under this section upon the successful admission of the principal alien; and

''(B) eligible for the derivative benefits associated with the immigrant or nonimmigrant visa granted to the principal alien without regard to numerical caps related to such visas.

''(5) WAIVERS.—The Secretary of Homeland Security may waive the departure requirement under this subsection if the alien—

''(A) is granted an immigrant or nonimmigrant visa; and

''(B) can demonstrate that the departure of the alien would create a substantial hardship on the alien or an immediate family member of the alien.

''(6) RETURN IN LEGAL STATUS.—An alien who complies with the terms of Deferred Mandatory Departure status and who departs before the expiration of such status—

''(A) shall not be subject to section 212(a)(9)(B);

''(B) if otherwise eligible, may immediately seek admission as a nonimmigrant or immigrant; and

''(C) is eligible to be employed by an employer in the United States regardless of whether the employer has complied with the requirements of section 218B(b)(7).

''(7) FAILURE TO DEPART.—An alien who fails to depart the United States prior to the expiration of Mandatory Deferred Departure status is not eligible and may not apply for or receive any immigration relief or benefit under this Act or any other law for a period of 10 years, with the exception of section 208 or 241(b)(3) or the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, in the case of an alien who indicates either an intention to apply for asylum under section 208 or a fear of persecution or torture.

''(8) PENALTIES FOR DELAYED DEPARTURE.—An alien who fails to depart immediately shall be subject to—

''(A) no fine if the alien departs not later than 1 year after the grant of Deferred Mandatory Departure;

''(B) a fine of $2,000 if the alien does not depart within 2 years after the grant of Deferred Mandatory Departure; and

''(C) a fine of $3,000 if the alien does not depart within 3 years after the grant of Deferred Mandatory Departure.

''(g) EVIDENCE OF DEFERRED MANDATORY DEPARTURE STATUS.—Evidence of Deferred Mandatory Departure status shall be machine-readable and tamper-resistant, shall allow for biometric authentication, and shall comply with the requirements under section 403 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note). The Secretary of Homeland Security is authorized to incorporate integrated-circuit technology into the document. The Secretary of Homeland Security shall consult with the Forensic Document Laboratory in designing the document. The document may serve as a travel, entry, and work authorization document during the period of its validity. The document may be accepted by an employer as evidence of employment authorization and identity under section 274A(c).

''(h) TERMS OF STATUS.—

''(1) REPORTING.—During the period of Deferred Mandatory Departure, an alien shall comply with all registration requirements under section 264.

''(2) TRAVEL.—

''(A) An alien granted Deferred Mandatory Departure is not subject to section 212(a)(9) for any unlawful presence that occurred prior to the Secretary of Homeland Security granting the alien Deferred Mandatory Departure status.

''(B) Under regulations established by the Secretary of Homeland Security, an alien granted Deferred Mandatory Departure—

''(i) may travel outside of the United States and may be readmitted if the period of Deferred Mandatory Departure status has not expired; and

''(ii) must establish at the time of application for admission that the alien is admissible under section 212.

''(C) EFFECT ON PERIOD OF AUTHORIZED ADMISSION.—Time spent outside the United States under subparagraph (B) shall not extend the period of Deferred Mandatory Departure status.

''(3) BENEFITS.—During the period in which an alien is granted Deferred Mandatory Departure under this section—

''(A) the alien shall not be considered to be permanently residing in the United States under the color of law and shall be treated as a nonimmigrant admitted under section 214; and

''(B) the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance.

''(i) PROHIBITION ON CHANGE OF STATUS OR ADJUSTMENT OF STATUS.—

''(1) IN GENERAL.—Before leaving the United States, an alien granted Deferred Mandatory Departure status may not apply to change status under section 248.

''(2) ADJUSTMENT OF STATUS.—An alien may not adjust to an immigrant classification under this section until after the earlier of—

''(A) the consideration of all applications filed under section 201, 202, or 203 before the date of enactment of this section; or

''(B) 8 years after the date of enactment of this section.

''(j) APPLICATION FEE.—

''(1) IN GENERAL.—An alien seeking a grant of Deferred Mandatory Departure status shall submit, in addition to any other fees authorized by law, an application fee of $1,000.

''(2) USE OF FEE.—The fees collected under paragraph (1) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove illegal aliens.

''(3) STATE IMPACT ASSISTANCE FEE.—

''(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, an alien seeking Deferred Mandatory Departure status shall submit, at the time the alien files an application under this section, a State impact assistance fee equal to $750.

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

''(k) FAMILY MEMBERS.—

''(1) IN GENERAL.—Subject to subsection (f)(4), the spouse or child of an alien granted

Deferred Mandatory Departure status is subject to the same terms and conditions as the principal alien.

''(2) APPLICATION FEE.—

''(A) IN GENERAL.—The spouse or child of an alien seeking Deferred Mandatory Departure status shall submit, in addition to any other fee authorized by law, an additional fee of $500.

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be available for use by the Secretary of Homeland Security for activities to identify, locate, or remove aliens who are removable under section 237.

''(3) STATE IMPACT ASSISTANCE FEE.—

''(A) IN GENERAL.—In addition to any other amounts required to be paid under this subsection, the spouse and each child of an alien seeking Deferred Mandatory Departure status shall submit a State impact assistance fee equal to $100.

''(B) USE OF FEE.—The fees collected under subparagraph (A) shall be deposited in the State Impact Assistance Account established under section 286(x).

''(l) EMPLOYMENT.—

''(1) IN GENERAL.—An alien who has applied for or has been granted Deferred Mandatory Departure status may be employed in the United States.

''(2) CONTINUOUS EMPLOYMENT.—An alien granted Deferred Mandatory Departure status must be employed while in the United States. An alien who fails to be employed for 60 days is ineligible for hire until the alien has departed the United States and reentered. The Secretary of Homeland Security may reauthorize an alien for employment without requiring the alien's departure from the United States.

''(m) ENUMERATION OF SOCIAL SECURITY NUMBER.—The Secretary of Homeland Security, in coordination with the Commissioner of the Social Security system, shall implement a system to allow for the enumeration of a Social Security number and production of a Social Security card at the time the Secretary of Homeland Security grants an alien Deferred Mandatory Departure status.

''(n) PENALTIES FOR FALSE STATEMENTS IN APPLICATION FOR DEFERRED MANDATORY DEPARTURE.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for adjustment of status under this section and knowingly and willfully falsify, misrepresent, conceal, or cover up a material fact or make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

''(ii) to create or supply a false writing or document for use in making such an application.

''(B) PENALTY.—Any person who violates subparagraph (A) shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

''(2) INADMISSIBILITY.—An alien who is convicted of a crime under paragraph (1) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i).

''(o) RELATION TO CANCELLATION OF REMOVAL.—With respect to an alien granted Deferred Mandatory Departure status under this section, the period of such status shall not be counted as a period of physical presence in the United States for purposes of section 240A(a), unless the Secretary of Homeland Security determines that extreme hardship exists.

''(p) WAIVER OF RIGHTS.—An alien is not eligible for Deferred Mandatory Departure status, unless the alien has waived any right under subsection (b)(7)(C), other than on the basis of an application for asylum, restriction of removal, or protection under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, or cancellation of removal pursuant to section 240A(a), any action for deportation or removal of the alien that is instituted against the alien subsequent to a grant of Deferred Mandatory Departure status.

''(q) DENIAL OF DISCRETIONARY RELIEF.—The determination of whether an alien is eligible for a grant of Deferred Mandatory Departure status is solely within the discretion of the Secretary of Homeland Security. Notwithstanding any other provision of law, no court shall have jurisdiction to review—

''(1) any judgment regarding the granting of relief under this section; or

''(2) any other decision or action of the Secretary of Homeland Security the authority for which is specified under this section to be in the discretion of the Secretary, other than the granting of relief under section 208(a).

''(r) JUDICIAL REVIEW.—

''(1) LIMITATIONS ON RELIEF.—Without regard to the nature of the action or claim and without regard to the identity of the party or parties bringing the action, no court may—

''(A) enter declaratory, injunctive, or other equitable relief in any action pertaining to—

''(i) an order or notice denying an alien a grant of Deferred Mandatory Departure status or any other benefit arising from such status; or

''(ii) an order of removal, exclusion, or deportation entered against an alien after a grant of Deferred Mandatory Departure status; or

''(B) certify a class under Rule 23 of the Federal Rules of Civil Procedure in any action for which judicial review is authorized under a subsequent paragraph of this subsection.

''(2) CHALLENGES TO VALIDITY.—

''(A) IN GENERAL.—Any right or benefit not otherwise waived or limited pursuant this section is available in an action instituted in the United States District Court for the District of Columbia, but shall be limited to determinations of—

''(i) whether such section, or any regulation issued to implement such section, violates the Constitution of the United States; or

''(ii) whether such a regulation, or a written policy directive, written policy guideline, or written procedure issued by or under the authority of the Secretary of Homeland Security to implement such section, is not consistent with applicable provisions of this section or is otherwise in violation of law.''.

(2) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.), as amended by this subsection (b)(2), is further amended by inserting after the item relating to section 245B the following:

''245C. Mandatory Departure and Reentry''.

(3) CONFORMING AMENDMENT.—Section 237(a)(2)(A)(i)(II) (8 U.S.C. 1227(a)(2)(A)(i)(II)) is amended by inserting ''(or 6 months in the case of an alien granted Deferred Mandatory Departure status under section 245C)'' after ''imposed''.

(4) STATUTORY CONSTRUCTION.—Nothing in this subsection, or any amendment made by this subsection, shall be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States or its agencies or officers or any other person.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such amounts as may be necessary for facilities, personnel (including consular officers), training, technology, and processing necessary to carry out the amendments made by this subsection.

(d) CORRECTION OF SOCIAL SECURITY RECORDS.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) whose status is adjusted to that of lawful permanent resident under section 245B of the Immigration and Nationality Act,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred prior to the date on which the alien became lawfully admitted for temporary residence.''.

(e) STATE IMPACT ASSISTANCE ACCOUNT.—Section 286 (8 U.S.C. 1356) is amended by inserting after subsection (w) the following:

''(x) STATE IMPACT ASSISTANCE ACCOUNT.—

''(1) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account, which shall be known as the 'State Impact Assistance Account'.

''(2) SOURCE OF FUNDS.—Notwithstanding any other provision under this Act, there shall be deposited as offsetting receipts into the State Impact Assistance Account all State impact assistance fees collected under section 245B(m)(5) and subsections (j)(3) and (k)(3) of section 245C.

''(3) USE OF FUNDS.—Amounts deposited into the State Impact Assistance Account may only be used to carry out the State Impact Assistance Grant Program established under paragraph (4).

''(4) STATE IMPACT ASSISTANCE GRANT PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary of Health and Human Services, in consultation with the Secretary of Education, shall establish the State Impact Assistance Grant Program (referred to in this section as the 'Program'), under which the Secretary may award grants to States to provide health and education services to noncitizens in accordance with this paragraph.

''(B) STATE ALLOCATIONS.—The Secretary of Health and Human Services shall annually allocate the amounts available in the State Impact Assistance Account among the States as follows:

''(i) NONCITIZEN POPULATION.—Eighty percent of such amounts shall be allocated so that each State receives the greater of—

''(I) $5,000,000; or

''(II) after adjusting for allocations under subclause (I), the percentage of the amount to be distributed under this clause that is equal to the noncitizen resident population of the State divided by the noncitizen resident population of all States, based on the most recent data available from the Bureau of the Census.

''(ii) HIGH GROWTH RATES.—Twenty percent of such amounts shall be allocated among the 20 States with the largest growth rates in noncitizen resident population, as determined by the Secretary of Health and Human Services, so that each such State receives the percentage of the amount distributed under this clause that is equal to—

''(I) the growth rate in the noncitizen resident population of the State during the most recent 3-year period for which data is available from the Bureau of the Census; divided by

''(II) the average growth rate in noncitizen resident population for the 20 States during such 3-year period.

''(iii) LEGISLATIVE APPROPRIATIONS.—The use of grant funds allocated to States under this paragraph shall be subject to appropriation by the legislature of each State in accordance with the terms and conditions under this paragraph.

''(C) FUNDING FOR LOCAL GOVERNMENT.—

''(i) DISTRIBUTION CRITERIA.—Grant funds received by States under this paragraph shall be distributed to units of local government based on need and function.

''(ii) MINIMUM DISTRIBUTION.—Except as provided in clause (iii), a State shall distribute not less than 30 percent of the grant funds received under this paragraph to units of local government not later than 180 days after receiving such funds.

''(iii) EXCEPTION.—If an eligible unit of local government that is available to carry out the activities described in subparagraph (D) cannot be found in a State, the State does not need to comply with clause (ii).

''(iv) UNEXPENDED FUNDS.—Any grant funds distributed by a State to a unit of local government that remain unexpended as of the end of the grant period shall revert to the State for redistribution to another unit of local government.

''(D) USE OF FUNDS.—States and units of local government shall use grant funds received under this paragraph to provide health services, educational services, and related services to noncitizens within their jurisdiction directly, or through contracts with eligible services providers, including—

''(i) health care providers;

''(ii) local educational agencies; and

''(iii) charitable and religious organizations.

''(E) STATE DEFINED.—In this paragraph, the term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

''(F) CERTIFICATION.—In order to receive a payment under this section, the State shall provide the Secretary of Health and Human Services with a certification that the State's proposed uses of the fund are consistent with (D).

''(G) ANNUAL REPORT.—The Secretary of Health and Human Services shall inform the States annually of the amount of funds available to each State under the Program.''.

Subtitle B—Agricultural Job Opportunities, Benefits, and Security

SEC. 611. SHORT TITLE.

This subtitle may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2006'' or the ''AgJOBS Act of 2006''.

SEC. 612. DEFINITIONS.

In this subtitle:

(1) AGRICULTURAL EMPLOYMENT.—The term ''agricultural employment'' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(2) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 613(a).

(3) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(4) JOB OPPORTUNITY.—The term ''job opportunity'' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

(5) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

CHAPTER 1—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS

SEC. 613. AGRICULTURAL WORKERS.

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; and

(C) is otherwise admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as otherwise provided under subsection (e)(2).

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an ''employment authorized'' endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this subtitle that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to $100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the Secretary confers blue card status upon that alien.

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures

promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including, but not limited to, reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least—

(I) 5 years of agricultural employment in the United States, for at least 100 work days or 575 hours, but in no case less than 575 hours per year, during the 5-year period beginning on the date of the enactment of this Act; or

(II) 3 years of agricultural employment in the United States, for at least 150 work days or 863 hours, but in no case less than 863 hours per year, during the 5-year period beginning on the date of the enactment of this Act.

(ii) PROOF.—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (a)(5); or

(II) such documentation as may be submitted under subsection (d)(3).

(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under clause (i)(I), the Secretary may credit the alien with not more than 12 additional months to meet the requirement under clause (i) if the alien was unable to work in agricultural employment due to—

(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) FINE.—The alien pays a fine to the Secretary in an amount equal to $400.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(C) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) PAYMENT OF TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of any applicable Federal tax liability by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been paid; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of clause (i), the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subparagraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—

(i) REMOVAL.—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) TRAVEL.—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) EMPLOYMENT.—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of a single misdemeanor for which the actual sentence served is 6 months or longer.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this subtitle as ''qualified designated entities''.

(3) PROOF OF ELIGIBILITY.—

(A) IN GENERAL.—An alien may establish that the alien meets the requirement of subsection (a)(1)(A) or (c)(1)(A) through government employment records or records supplied by employers or collective bargaining organizations, and other reliable documentation as the alien may provide. The Secretary shall establish special procedures to properly credit work in cases in which an alien was employed under an assumed name.

(B) DOCUMENTATION OF WORK HISTORY.—

(i) BURDEN OF PROOF.—An alien applying for status under subsection (a)(1) or (c)(1) has the burden of proving by a preponderance of the evidence that the alien has worked the requisite number of hours or days (as required under subsection (a)(1)(A) or (c)(1)(A)).

(ii) TIMELY PRODUCTION OF RECORDS.—If an employer or farm labor contractor employing such an alien has kept proper and adequate records respecting such employment, the alien's burden of proof under clause (i) may be met by securing timely production of those records under regulations to be promulgated by the Secretary.

(iii) SUFFICIENT EVIDENCE.—An alien can meet the burden of proof under clause (i) to establish that the alien has performed the work described in subsection (a)(1)(A) or (c)(1)(A) by producing sufficient evidence to show the extent of that employment as a matter of just and reasonable inference.

(4) TREATMENT OF APPLICATIONS BY QUALIFIED DESIGNATED ENTITIES.—Each qualified designated entity shall agree to forward to the Secretary applications filed with it in accordance with paragraph (1)(A)(i)(II) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department, or a bureau or agency of the Department, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department, or a bureau or agency of the Department, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

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

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $40,000,000 for each of fiscal years 2007 through 2010.

SEC. 614. CORRECTION OF SOCIAL SECURITY RECORDS.

(a) IN GENERAL.—Section 208(d)(1) of the Social Security Act (42 U.S.C. 408(d)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2006,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

CHAPTER 2—REFORM OF H–2A WORKER PROGRAM

SEC. 615. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et seq.) is amended—

(1) by striking section 218 and inserting the following:

''SEC. 218. H–2A EMPLOYER APPLICATIONS.

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 218E to all workers employed in the job opportunities for which the employer has applied under subsection (a) and to all other workers in the same occupation at the place of employment.

''(D) NONDISPLACEMENT OF UNITED STATES WORKERS.—The employer did not displace and will not displace a United States worker employed by the employer during the period of employment and for a period of 30 days preceding the period of employment in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(E) REQUIREMENTS FOR PLACEMENT OF NONIMMIGRANT WITH OTHER EMPLOYERS.—The employer will not place the nonimmigrant with another employer unless—

''(i) the nonimmigrant performs duties in whole or in part at 1 or more work sites owned, operated, or controlled by such other employer;

''(ii) there are indicia of an employment relationship between the nonimmigrant and such other employer; and

''(iii) the employer has inquired of the other employer as to whether, and has no actual knowledge or notice that, during the period of employment and for a period of 30 days preceding the period of employment, the other employer has displaced or intends to displace a United States worker employed by the other employer in the occupation at the place of employment for which the employer seeks approval to employ H–2A workers.

''(F) STATEMENT OF LIABILITY.—The application form shall include a clear statement explaining the liability under subparagraph (E) of an employer if the other employer described in such subparagraph displaces a United States worker as described in such subparagraph.

''(G) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(H) EMPLOYMENT OF UNITED STATES WORKERS.—

''(i) RECRUITMENT.—The employer has taken or will take the following steps to recruit United States workers for the job opportunities for which the H–2A nonimmigrant is, or H–2A nonimmigrants are, sought:

''(I) CONTACTING FORMER WORKERS.—The employer shall make reasonable efforts through the sending of a letter by United States Postal Service mail, or otherwise, to contact any United States worker the employer employed during the previous season in the occupation at the place of intended employment for which the employer is applying for workers and has made the availability of the employer's job opportunities in the occupation at the place of intended employment known to such previous workers, unless the worker was terminated from employment by the employer for a lawful job-related reason or abandoned the job before the worker completed the period of employment of the job opportunity for which the worker was hired.

''(II) FILING A JOB OFFER WITH THE LOCAL OFFICE OF THE STATE EMPLOYMENT SECURITY AGENCY.—Not later than 28 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall submit a copy of the job offer described in subsection (a)(2) to the local office of the State employment security agency which serves the area of intended employment and authorize the posting of the job opportunity on 'America's Job Bank' or other electronic job registry, except that nothing in this subclause shall require the employer to file an interstate job order under section 653 of title 20, Code of Federal Regulations.

''(III) ADVERTISING OF JOB OPPORTUNITIES.—Not later than 14 days before the date on which the employer desires to employ an H–2A worker in a temporary or seasonal agricultural job opportunity, the employer shall advertise the availability of the job opportunities for which the employer is seeking workers in a publication in the local labor market that is likely to be patronized by potential farm workers.

''(IV) EMERGENCY PROCEDURES.—The Secretary of Labor shall, by regulation, provide a procedure for acceptance and approval of applications in which the employer has not complied with the provisions of this subparagraph because the employer's need for H–2A workers could not reasonably have been foreseen.

''(ii) JOB OFFERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or nonimmigrants are, sought and who will be available at the time and place of need.

''(iii) PERIOD OF EMPLOYMENT.—The employer will provide employment to any qualified United States worker who applies to the employer during the period beginning on the date on which the foreign worker departs for the employer's place of employment and ending on the date on which 50 percent of the period of employment for which the foreign worker who is in the job was hired has elapsed, subject to the following requirements:

''(I) PROHIBITION.—No person or entity shall willfully and knowingly withhold United States workers before the arrival of H–2A workers in order to force the hiring of United States workers under this clause.

''(II) COMPLAINTS.—Upon receipt of a complaint by an employer that a violation of subclause (I) has occurred, the Secretary of Labor shall immediately investigate. The Secretary of Labor shall, within 36 hours of the receipt of the complaint, issue findings concerning the alleged violation. If the Secretary of Labor finds that a violation has occurred, the Secretary of Labor shall immediately suspend the application of this clause with respect to that certification for that date of need.

''(III) PLACEMENT OF UNITED STATES WORKERS.—Before referring a United States worker to an employer during the period described in the matter preceding subclause (I), the Secretary of Labor shall make all reasonable efforts to place the United States worker in an open job acceptable to the worker, if there are other job offers pending with the job service that offer similar job opportunities in the area of intended employment.

''(iv) STATUTORY CONSTRUCTION.—Nothing in this subparagraph shall be construed to prohibit an employer from using such legitimate selection criteria relevant to the type of job that are normal or customary to the type of job involved so long as such criteria are not applied in a discriminatory manner.

''(c) APPLICATIONS BY ASSOCIATIONS ON BEHALF OF EMPLOYER MEMBERS.—

''(1) IN GENERAL.—An agricultural association may file an application under subsection (a) on behalf of 1 or more of its employer members that the association certifies in its application has or have agreed in writing to comply with the requirements of this section and sections 218E through 218G.

''(2) TREATMENT OF ASSOCIATIONS ACTING AS EMPLOYERS.—If an association filing an application under paragraph (1) is a joint or sole employer of the temporary or seasonal agricultural workers requested on the application, the certifications granted under subsection (e)(2)(B) to the association may be used for the certified job opportunities of any of its producer members named on the application, and such workers may be transferred among such producer members to perform the agricultural services of a temporary or seasonal nature for which the certifications were granted.

''(d) WITHDRAWAL OF APPLICATIONS.—

''(1) IN GENERAL.—An employer may withdraw an application filed pursuant to subsection (a), except that if the employer is an agricultural association, the association may withdraw an application filed pursuant to subsection (a) with respect to 1 or more of its members. To withdraw an application, the employer or association shall notify the Secretary of Labor in writing, and the Secretary of Labor shall acknowledge in writing the receipt of such withdrawal notice. An employer who withdraws an application under subsection (a), or on whose behalf an application is withdrawn, is relieved of the obligations undertaken in the application.

''(2) LIMITATION.—An application may not be withdrawn while any alien provided status under section 101(a)(15)(H)(ii)(a) pursuant to such application is employed by the employer.

''(3) OBLIGATIONS UNDER OTHER STATUTES.—Any obligation incurred by an employer under any other law or regulation as a result of the recruitment of United States workers or H–2A workers under an offer of terms and conditions of employment required as a result of making an application under subsection (a) is unaffected by withdrawal of such application.

''(e) REVIEW AND APPROVAL OF APPLICATIONS.—

''(1) RESPONSIBILITY OF EMPLOYERS.—The employer shall make available for public examination, within 1 working day after the date on which an application under subsection (a) is filed, at the employer's principal place of business or work site, a copy of each such application (and such accompanying documents as are necessary).

''(2) RESPONSIBILITY OF THE SECRETARY OF LABOR.—

''(A) COMPILATION OF LIST.—The Secretary of Labor shall compile, on a current basis, a list (by employer and by occupational classification) of the applications filed under this subsection. Such list shall include the wage rate, number of workers sought, period of intended employment, and date of need. The Secretary of Labor shall make such list available for examination in the District of Columbia.

''(B) REVIEW OF APPLICATIONS.—The Secretary of Labor shall review such an application only for completeness and obvious inaccuracies. Unless the Secretary of Labor finds that the application is incomplete or obviously inaccurate, the Secretary of Labor shall certify that the intending employer has filed with the Secretary of Labor an application as described in subsection (a). Such certification shall be provided within 7 days of the filing of the application.''; and

(2) by inserting after section 218D, as added by section 601 of this Act, the following:

''SEC. 218E. H–2A EMPLOYMENT REQUIREMENTS.

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—When it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing

under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2006 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating

the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including but not limited to a flood, hurricane, freeze, earthquake, fire, drought, plant or animal disease or pest infestation, or regulatory drought, before the guarantee in subparagraph (A) is fulfilled, the employer may terminate the worker's employment. In the event of such termination, the employer shall fulfill the employment guarantee in subparagraph (A) for the work days that have elapsed from the first work day after the arrival of the worker to the termination of employment. In such cases, the employer will make efforts to transfer the United States worker to other comparable employment acceptable to the worker. If such transfer is not effected, the employer shall provide the return transportation required in paragraph (2)(D).

''(5) MOTOR VEHICLE SAFETY.—

''(A) MODE OF TRANSPORTATION SUBJECT TO COVERAGE.—

''(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), this subsection applies to any H–2A employer that uses or causes to be used any vehicle to transport an H–2A worker within the United States.

''(ii) DEFINED TERM.—In this paragraph, the term 'uses or causes to be used'—

''(I) applies only to transportation provided by an H–2A employer to an H–2A worker, or by a farm labor contractor to an H–2A worker at the request or direction of an H–2A employer; and

''(II) does not apply to—

''(aa) transportation provided, or transportation arrangements made, by an H–2A worker, unless the employer specifically requested or arranged such transportation; or

''(bb) car pooling arrangements made by H–2A workers themselves, using 1 of the workers' own vehicles, unless specifically requested by the employer directly or through a farm labor contractor.

''(iii) CLARIFICATION.—Providing a job offer to an H–2A worker that causes the worker to travel to or from the place of employment, or the payment or reimbursement of the transportation costs of an H–2A worker by an H–2A employer, shall not constitute an arrangement of, or participation in, such transportation.

''(iv) AGRICULTURAL MACHINERY AND EQUIPMENT EXCLUDED.—This subsection does not apply to the transportation of an H–2A worker on a tractor, combine, harvester, picker, or other similar machinery or equipment while such worker is actually engaged in the planting, cultivating, or harvesting of agricultural commodities or the care of livestock or poultry or engaged in transportation incidental thereto.

''(v) COMMON CARRIERS EXCLUDED.—This subsection does not apply to common carrier motor vehicle transportation in which the provider holds itself out to the general public as engaging in the transportation of passengers for hire and holds a valid certification of authorization for such purposes from an appropriate Federal, State, or local agency.

''(B) APPLICABILITY OF STANDARDS, LICENSING, AND INSURANCE REQUIREMENTS.—

''(i) IN GENERAL.—When using, or causing to be used, any vehicle for the purpose of providing transportation to which this subparagraph applies, each employer shall—

''(I) ensure that each such vehicle conforms to the standards prescribed by the Secretary of Labor under section 401(b) of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1841(b)) and other applicable Federal and State safety standards;

''(II) ensure that each driver has a valid and appropriate license, as provided by State law, to operate the vehicle; and

''(III) have an insurance policy or a liability bond that is in effect which insures the employer against liability for damage to persons or property arising from the ownership, operation, or causing to be operated, of any vehicle used to transport any H–2A worker.

''(ii) AMOUNT OF INSURANCE REQUIRED.—The level of insurance required shall be determined by the Secretary of Labor pursuant to regulations to be issued under this subsection.

''(iii) EFFECT OF WORKERS' COMPENSATION COVERAGE.—If the employer of any H–2A worker provides workers' compensation coverage for such worker in the case of bodily injury or death as provided by State law, the following adjustments in the requirements of subparagraph (B)(i)(III) relating to having an insurance policy or liability bond apply:

''(I) No insurance policy or liability bond shall be required of the employer, if such workers are transported only under circumstances for which there is coverage under such State law.

''(II) An insurance policy or liability bond shall be required of the employer for circumstances under which coverage for the transportation of such workers is not provided under such State law.

''(c) COMPLIANCE WITH LABOR LAWS.—An employer shall assure that, except as otherwise provided in this section, the employer will comply with all applicable Federal, State, and local labor laws, including laws affecting migrant and seasonal agricultural workers, with respect to all United States workers and alien workers employed by the employer, except that a violation of this assurance shall not constitute a violation of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

''(d) COPY OF JOB OFFER.—The employer shall provide to the worker, not later than the day the work commences, a copy of the employer's application and job offer described in section 218(a), or, if the employer will require the worker to enter into a separate employment contract covering the employment in question, such separate employment contract.

''(e) RANGE PRODUCTION OF LIVESTOCK.—Nothing in this section, section 218, or section 218F shall preclude the Secretary of Labor and the Secretary from continuing to apply special procedures and requirements to the admission and employment of aliens in occupations involving the range production of livestock.

''SEC. 218F. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7

working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218E, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅙ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of an eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)((3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary of Homeland Security shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

''SEC. 218G. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (H). If the Secretary of Labor determines that such a reasonable basis exists, the Secretary of Labor shall provide for notice of such determination to the interested parties and an opportunity for a hearing on the complaint, in accordance with section 556 of title 5, United States Code, within 60 days after the date of the determination. If such a hearing is requested, the Secretary of Labor shall make a finding concerning the matter not later than 60 days after the date of the hearing. In the case of similar complaints respecting the same applicant, the Secretary of Labor may consolidate the hearings under this subparagraph on such complaints.

''(C) FAILURES TO MEET CONDITIONS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(A), (1)(B), (1)(D), (1)(F), (2)(A), (2)(B), or (2)(G) of section 218(b), a substantial failure to meet a condition of paragraph (1)(C), (1)(E), (2)(C), (2)(D), (2)(E), or (2)(H) of section 218(b), or a material misrepresentation of fact in an application under section 218(a)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $1,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of aliens described in section 101(a)(15)(H)(ii)(a) for a period of 1 year.

''(D) WILLFUL FAILURES AND WILLFUL MISREPRESENTATIONS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b), a willful misrepresentation of a material fact in an application under section 218(a), or a violation of subsection (d)(1)—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $5,000 per violation) as the Secretary of Labor determines to be appropriate;

''(ii) the Secretary of Labor may seek appropriate legal or equitable relief to effectuate the purposes of subsection (d)(1); and

''(iii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 2 years.

''(E) DISPLACEMENT OF UNITED STATES WORKERS.—If the Secretary of Labor finds, after notice and opportunity for hearing, a willful failure to meet a condition of section 218(b) or a willful misrepresentation of a material fact in an application under section 218(a), in the course of which failure or misrepresentation the employer displaced a United States worker employed by the employer during the period of employment on the employer's application under section 218(a) or during the period of 30 days preceding such period of employment—

''(i) the Secretary of Labor shall notify the Secretary of such finding and may, in addition, impose such other administrative remedies (including civil money penalties in an amount not to exceed $15,000 per violation) as the Secretary of Labor determines to be appropriate; and

''(ii) the Secretary may disqualify the employer from the employment of H–2A workers for a period of 3 years.

''(F) LIMITATIONS ON CIVIL MONEY PENALTIES.—The Secretary of Labor shall not impose total civil money penalties with respect to an application under section 218(a) in excess of $90,000.

''(G) FAILURES TO PAY WAGES OR REQUIRED BENEFITS.—If the Secretary of Labor finds, after notice and opportunity for a hearing, that the employer has failed to pay the wages, or provide the housing allowance, transportation, subsistence reimbursement, or guarantee of employment, required under section 218E(b), the Secretary of Labor shall assess payment of back wages, or other required benefits, due any United States worker or H–2A worker employed by the employer in the specific employment in question. The back wages or other required benefits under section 218E(b) shall be equal to the difference between the amount that should have been paid and the amount that actually was paid to such worker.

''(2) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of the Secretary of Labor to conduct any compliance investigation under any other labor law, including any law affecting migrant and seasonal agricultural workers, or, in the absence of a complaint under this section, under section 218 or 218E.

''(b) RIGHTS ENFORCEABLE BY PRIVATE RIGHT OF ACTION.—H–2A workers may enforce the following rights through the private right of action provided in subsection (c), and no other right of action shall exist under Federal or State law to enforce such rights:

''(1) The providing of housing or a housing allowance as required under section 218E(b)(1).

''(2) The reimbursement of transportation as required under section 218E(b)(2).

''(3) The payment of wages required under section 218E(b)(3) when due.

''(4) The benefits and material terms and conditions of employment expressly provided in the job offer described in section 218(a)(2), not including the assurance to comply with other Federal, State, and local labor laws described in section 218E(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218E(b)(4).

''(6) The motor vehicle safety requirements under section 218E(b)(5).

''(7) The prohibition of discrimination under subsection (d)(2).

''(c) PRIVATE RIGHT OF ACTION.—

''(1) MEDIATION.—Upon the filing of a complaint by an H–2A worker aggrieved by a violation of rights enforceable under subsection (b), and within 60 days of the filing of proof of service of the complaint, a party to the action may file a request with the Federal Mediation and Conciliation Service to assist the parties in reaching a satisfactory resolution of all issues involving all parties to the dispute. Upon a filing of such request and giving of notice to the parties, the parties shall attempt mediation within the period specified in subparagraph (B).

''(A) MEDIATION SERVICES.—The Federal Mediation and Conciliation Service shall be available to assist in resolving disputes arising under subsection (b) between H–2A workers and agricultural employers without charge to the parties.

''(B) 90-DAY LIMIT.—The Federal Mediation and Conciliation Service may conduct mediation or other non-binding dispute resolution activities for a period not to exceed 90 days beginning on the date on which the Federal Mediation and Conciliation Service receives the request for assistance unless the parties agree to an extension of this period of time.

''(C) AUTHORIZATION.—

''(i) IN GENERAL.—Subject to clause (ii), there are authorized to be appropriated to the Federal Mediation and Conciliation Service $500,000 for each fiscal year to carry out this section.

''(ii) MEDIATION.—Notwithstanding any other provision of law, the Director of the Federal Mediation and Conciliation Service

is authorized to conduct the mediation or other dispute resolution activities from any other appropriated funds available to the Director and to reimburse such appropriated funds when the funds are appropriated pursuant to this authorization, such reimbursement to be credited to appropriations currently available at the time of receipt.

''(2) MAINTENANCE OF CIVIL ACTION IN DISTRICT COURT BY AGGRIEVED PERSON.—An H–2A worker aggrieved by a violation of rights enforceable under subsection (b) by an agricultural employer or other person may file suit in any district court of the United States having jurisdiction of the parties, without regard to the amount in controversy, without regard to the citizenship of the parties, and without regard to the exhaustion of any alternative administrative remedies under this Act, not later than 3 years after the date the violation occurs.

''(3) ELECTION.—An H–2A worker who has filed an administrative complaint with the Secretary of Labor may not maintain a civil action under paragraph (2) unless a complaint based on the same violation filed with the Secretary of Labor under subsection (a)(1) is withdrawn before the filing of such action, in which case the rights and remedies available under this subsection shall be exclusive.

''(4) PREEMPTION OF STATE CONTRACT RIGHTS.—Nothing in this Act shall be construed to diminish the rights and remedies of an H–2A worker under any other Federal or State law or regulation or under any collective bargaining agreement, except that no court or administrative action shall be available under any State contract law to enforce the rights created by this Act.

''(5) WAIVER OF RIGHTS PROHIBITED.—Agreements by employees purporting to waive or modify their rights under this Act shall be void as contrary to public policy, except that a waiver or modification of the rights or obligations in favor of the Secretary of Labor shall be valid for purposes of the enforcement of this Act. The preceding sentence may not be construed to prohibit agreements to settle private disputes or litigation.

''(6) AWARD OF DAMAGES OR OTHER EQUITABLE RELIEF.—

''(A) If the court finds that the respondent has intentionally violated any of the rights enforceable under subsection (b), it shall award actual damages, if any, or equitable relief.

''(B) Any civil action brought under this section shall be subject to appeal as provided in chapter 83 of title 28, United States Code.

''(7) WORKERS' COMPENSATION BENEFITS; EXCLUSIVE REMEDY.—

''(A) Notwithstanding any other provision of this section, where a State's workers' compensation law is applicable and coverage is provided for an H–2A worker, the workers' compensation benefits shall be the exclusive remedy for the loss of such worker under this section in the case of bodily injury or death in accordance with such State's workers' compensation law.

''(B) The exclusive remedy prescribed in subparagraph (A) precludes the recovery under paragraph (6) of actual damages for loss from an injury or death but does not preclude other equitable relief, except that such relief shall not include back or front pay or in any manner, directly or indirectly, expand or otherwise alter or affect—

''(i) a recovery under a State workers' compensation law; or

''(ii) rights conferred under a State workers' compensation law.

''(8) TOLLING OF STATUTE OF LIMITATIONS.—If it is determined under a State workers' compensation law that the workers' compensation law is not applicable to a claim for bodily injury or death of an H–2A worker, the statute of limitations for bringing an action for actual damages for such injury or death under subsection (c) shall be tolled for the period during which the claim for such injury or death under such State workers' compensation law was pending. The statute of limitations for an action for actual damages or other equitable relief arising out of the same transaction or occurrence as the injury or death of the H–2A worker shall be tolled for the period during which the claim for such injury or death was pending under the State workers' compensation law.

''(9) PRECLUSIVE EFFECT.—Any settlement by an H–2A worker and an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 218E or any rule or regulation pertaining to section 218 or 218E, or because the employee cooperates or seeks to cooperate in an investigation or other proceeding concerning the employer's compliance with the requirements of section 218 or 218E or any rule or regulation pertaining to either of such sections.

''(2) DISCRIMINATION AGAINST H–2A WORKERS.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against an H–2A employee because such worker has, with just cause, filed a complaint with the Secretary of Labor regarding a denial of the rights enumerated and enforceable under subsection (b) or instituted, or caused to be instituted, a private right of action under subsection (c) regarding the denial of the rights enumerated under subsection (b), or has testified or is about to testify in any court proceeding brought under subsection (c).

''(e) AUTHORIZATION TO SEEK OTHER APPROPRIATE EMPLOYMENT.—The Secretary of Labor and the Secretary shall establish a process under which an H–2A worker who files a complaint regarding a violation of subsection (d) and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States for a period not to exceed the maximum period of stay authorized for such nonimmigrant classification.

''(f) ROLE OF ASSOCIATIONS.—

''(1) VIOLATION BY A MEMBER OF AN ASSOCIATION.—An employer on whose behalf an application is filed by an association acting as its agent is fully responsible for such application, and for complying with the terms and conditions of sections 218 and 218E, as though the employer had filed the application itself. If such an employer is determined, under this section, to have committed a violation, the penalty for such violation shall apply only to that member of the association unless the Secretary of Labor determines that the association or other member participated in, had knowledge, or reason to know, of the violation, in which case the penalty shall be invoked against the association or other association member as well.

''(2) VIOLATIONS BY AN ASSOCIATION ACTING AS AN EMPLOYER.—If an association filing an application as a sole or joint employer is determined to have committed a violation under this section, the penalty for such violation shall apply only to the association unless the Secretary of Labor determines that an association member or members participated in or had knowledge, or reason to know of the violation, in which case the penalty shall be invoked against the association member or members as well.

''SEC. 218H. DEFINITIONS.

''For purposes of this section, section 218, and sections 218E through 218G:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 218E(b)(4)(D)), or temporary layoffs due to weather, markets, or other temporary conditions; but

''(ii) does not include any situation in which the worker is offered, as an alternative to such loss of employment, a similar employment opportunity with the same employer (or, in the case of a placement of a worker with another employer under section 218(b)(2)(E), with either employer described in such section) at equivalent or higher compensation and benefits than the position from which the employee was discharged, regardless of whether or not the employee accepts the offer.

''(B) STATUTORY CONSTRUCTION.—Nothing in this paragraph is intended to limit an employee's rights under a collective bargaining agreement or other employment contract.

''(10) REGULATORY DROUGHT.—The term 'regulatory drought' means a decision subsequent to the filing of the application under section 218 by an entity not under the control of the employer making such filing which restricts the employer's access to water for irrigation purposes and reduces or limits the employer's ability to produce an agricultural commodity, thereby reducing the need for labor.

''(11) SEASONAL.—Labor is performed on a 'seasonal' basis if—

''(A) ordinarily, it pertains to or is of the kind exclusively performed at certain seasons or periods of the year; and

''(B) from its nature, it may not be continuous or carried on throughout the year.

''(12) SECRETARY.—The term 'Secretary' means the Secretary of Homeland Security.

''(13) TEMPORARY.—A worker is employed on a 'temporary' basis where the employment is intended not to exceed 10 months.

''(14) UNITED STATES WORKER.—The term 'United States worker' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a).''.

(b) TABLE OF CONTENTS.—The table of contents (8 U.S.C. 1101 et seq.) is amended—

(1) by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications''

and

(2) by inserting after the item relating to section 218D, as added by section 601 of this Act, the following:

''Sec. 218E. H–2A employment requirements
''Sec. 218F. Procedure for admission and extension of stay of H–2A workers
''Sec. 218G. Worker protections and labor standards enforcement
''Sec. 218H. Definitions''.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 616. DETERMINATION AND USE OF USER FEES.

(a) SCHEDULE OF FEES.—The Secretary shall establish and periodically adjust a schedule of fees for the employment of aliens under this subtitle and the amendments made by this subtitle, and a collection process for such fees from employers participating in the program provided under this subtitle. Such fees shall be the only fees chargeable to employers for services provided under this subtitle.

(b) DETERMINATION OF SCHEDULE.—

(1) IN GENERAL.—The schedule under subsection (a) shall reflect a fee rate based on the number of job opportunities indicated in the employer's application under section 218 of the Immigration and Nationality Act, as added by section 615 of this Act, and sufficient to provide for the direct costs of providing services related to an employer's authorization to employ eligible aliens pursuant to this subtitle, to include the certification of eligible employers, the issuance of documentation, and the admission of eligible aliens.

(2) PROCEDURE.—

(A) IN GENERAL.—In establishing and adjusting such a schedule, the Secretary shall comply with Federal cost accounting and fee setting standards.

(B) PUBLICATION AND COMMENT.—The Secretary shall publish in the Federal Register an initial fee schedule and associated collection process and the cost data or estimates upon which such fee schedule is based, and any subsequent amendments thereto, pursuant to which public comment shall be sought and a final rule issued.

(c) USE OF PROCEEDS.—Notwithstanding any other provision of law, all proceeds resulting from the payment of the alien employment user fees shall be available without further appropriation and shall remain available without fiscal year limitation to reimburse the Secretary, the Secretary of State, and the Secretary of Labor for the costs of carrying out sections 218 and 218F of the Immigration and Nationality Act, as added by section 615 of this Act, and the provisions of this subtitle.

SEC. 617. REGULATIONS.

(a) REGULATIONS OF THE SECRETARY.—The Secretary shall consult with the Secretary of Labor and the Secretary of Agriculture on all regulations to implement the duties of the Secretary under this subtitle and the amendments made by this subtitle.

(b) REGULATIONS OF THE SECRETARY OF STATE.—The Secretary of State shall consult with the Secretary, the Secretary of Labor, and the Secretary of Agriculture on all regulations to implement the duties of the Secretary of State under this subtitle and the amendments made by this subtitle.

(c) REGULATIONS OF THE SECRETARY OF LABOR.—The Secretary of Labor shall consult with the Secretary of Agriculture and the Secretary on all regulations to implement the duties of the Secretary of Labor under this subtitle and the amendments made by this subtitle.

(d) DEADLINE FOR ISSUANCE OF REGULATIONS.—All regulations to implement the duties of the Secretary, the Secretary of State, and the Secretary of Labor created under sections 218, 218E, 218F, and 218G of the Immigration and Nationality Act, as added by section 615 of this Act, shall take effect on the effective date of section 615 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 618. REPORT TO CONGRESS.

Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218F(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218F(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 613(a);

(5) the number of such aliens whose status was adjusted under section 613(a);

(6) the number of aliens who applied for permanent residence pursuant to section 613(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 613(c).

SEC. 619. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 615 and 616 shall take effect 1 year after the date of the enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the measures being taken and the progress made in implementing this subtitle.

Subtitle C—DREAM Act

SEC. 621. SHORT TITLE.

This subtitle may be cited as the ''Development, Relief, and Education for Alien Minors Act of 2006'' or the ''DREAM Act of 2006''.

SEC. 622. DEFINITIONS.

In this subtitle:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 623. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 624. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this subtitle, the Secretary may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 625, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(B), (6)(C), (6)(E), (6)(F), or (6)(G) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or, if inadmissible solely under subparagraph (C) or (F) of paragraph (6) of such subsection, the alien was under the age of 16 years at the time the violation was committed; and

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D), (4), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)), or, if deportable solely under subparagraphs (C) or (D) of paragraph (3) of such subsection, the alien was under the age of 16 years at the time the violation was committed;

(D) the alien, at the time of application, has been admitted to an institution of higher education in the United States, or has earned a high school diploma or obtained a

general education development certificate in the United States; and

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has remained in the United States under color of law or received the order before attaining the age of 16 years.

(2) WAIVER.—The Secretary may waive the grounds of ineligibility under section 212(a)(6) of the Immigration and Nationality Act and the grounds of deportability under paragraphs (1), (3), and (6) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN.—The Secretary may not remove any alien who has a pending application for conditional status under this subtitle.

SEC. 625. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 626, an alien whose status has been adjusted under section 624 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this subtitle with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary shall terminate the conditional permanent resident status of any alien who obtained such status under this subtitle, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 624(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the uniformed services.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this subtitle.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which provides, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (2)(A).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION.—

(A) IN GENERAL.—If a petition is filed in accordance with paragraph (1) for an alien, the Secretary shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION.—An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary in accordance with this subtitle. The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION.—

(1) CONTENTS OF PETITION.—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien is in compliance with section 624(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of all of the secondary educational institutions that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary may, in the Secretary's discretion, remove the conditional status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary may extend the period of the conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must be removed before the alien may apply for naturalization.

SEC. 626. RETROACTIVE BENEFITS.

If, on the date of enactment of this Act, an alien has satisfied all the requirements of subparagraphs (A) through (E) of section 624(a)(1) and section 625(d)(1)(D), the Secretary may adjust the status of the alien to that of a conditional resident in accordance with section 624. The alien may petition for removal of such condition at the end of the conditional residence period in accordance with section 625(c) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 625(d)(1) during the entire period of conditional residence.

SEC. 627. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary shall have exclusive jurisdiction to determine eligibility for relief under this subtitle, except

where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this subtitle, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this subtitle.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 624(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States, consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.), and State and local laws governing minimum age for employment.

(d) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 628. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this subtitle and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 629. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—No officer or employee of the United States may—

(1) use the information furnished by the applicant pursuant to an application filed under this subtitle to initiate removal proceedings against any persons identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this subtitle can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of applications filed under this subtitle with a designated entity, that designated entity, to examine applications filed under this subtitle.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 630. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this subtitle shall provide that applications under this subtitle will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 631. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this subtitle shall be eligible only for the following assistance under such title IV:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 632. GAO REPORT.

Seven years after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, which sets forth—

(1) the number of aliens who were eligible for cancellation of removal and adjustment of status under section 624(a);

(2) the number of aliens who applied for adjustment of status under section 624(a);

(3) the number of aliens who were granted adjustment of status under section 624(a); and

(4) the number of aliens whose conditional permanent resident status was removed under section 625.

Subtitle D—Programs To Assist Nonimmigrant Workers

SEC. 641. INELIGIBILITY AND REMOVAL PRIOR TO APPLICATION PERIOD.

(a) LIMITATIONS ON INELIGIBILITY.—

(1) IN GENERAL.—An alien is not ineligible for any immigration benefit under any provision of this title, or any amendment made by this title, solely on the basis that the alien violated section 1543, 1544, or 1546 of chapter 75 of title 18, United States Code, during the period beginning on the date of the enactment of this Act and ending on the date that the Department of Homeland Security begins accepting applications for benefits under title VI.

(2) PROSECUTION.—An alien who commits a violation of such section 1543, 1544, or 1546 during the period beginning on the date the enactment of this Act and ending on the date that the alien applies for eligibility for such benefit may be prosecuted for the violation if the alien's application for such benefit is denied.

(b) LIMITATION ON REMOVAL.—If an alien who is apprehended prior to the beginning of the applicable application period described in a provision of this title, or an amendment made by this title, is able to establish prima facie eligibility for an adjustment of status under such a provision, the alien may not be removed from the United States for any reason until the date that is 180 days after the first day of such applicable application period unless the alien has engaged in criminal conduct or is a threat to the national security of the United States.

SEC. 642. GRANTS TO SUPPORT PUBLIC EDUCATION AND COMMUNITY TRAINING.

(a) GRANTS AUTHORIZED.—The Assistant Attorney General, Office of Justice Programs, may award grants to qualified nonprofit community organizations to educate, train, and support non-profit agencies, immigrant communities, and other interested entities regarding the provisions of this Act and the amendments made by this Act.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Grants awarded under this section shall be used—

(A) for public education, training, technical assistance, government liaison, and all related costs (including personnel and equipment) incurred by the grantee in providing services related to this Act; and

(B) to educate, train, and support nonprofit organizations, immigrant communities, and other interested parties regarding this Act and the amendments made by this Act and on matters related to its implementation.

(2) EDUCATION.—In addition to the purposes described in paragraph (1), grants awarded under this section shall be used to—

(A) educate immigrant communities and other interested entities regarding—

(i) the individuals and organizations that can provide authorized legal representation in immigration matters under regulations prescribed by the Secretary; and

(ii) the dangers of securing legal advice and assistance from those who are not authorized to provide legal representation in immigration matters;

(B) educate interested entities regarding the requirements for obtaining nonprofit recognition and accreditation to represent immigrants under regulations prescribed by the Secretary;

(C) provide nonprofit agencies with training and technical assistance on the recognition and accreditation process; and

(D) educate nonprofit community organizations, immigrant communities, and other interested entities regarding—

(i) the process for obtaining benefits under this Act or under an amendment made by this Act; and

(ii) the availability of authorized legal representation for low-income persons who may qualify for benefits under this Act or under an amendment made by this Act.

(c) DIVERSITY.—The Assistant Attorney General shall ensure, to the extent possible, that the nonprofit community organizations receiving grants under this section serve geographically diverse locations and ethnically diverse populations who may qualify for benefits under the Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Office of Justice Programs of the Department of Justice such sums as may be necessary for each of the fiscal years 2007 through 2009 to carry out this section.

SEC. 643. STRENGTHENING AMERICAN CITIZENSHIP.

(a) SHORT TITLE.—This section may be cited as the ''Strengthening American Citizenship Act of 2006''.

(b) DEFINITION.—In this section, the term ''Oath of Allegiance'' means the binding oath (or affirmation) of allegiance required to be naturalized as a citizen of the United States, as prescribed in section 337(e) of the Immigration and Nationality Act, as added by subsection (h)(1)(B).

(c) ENGLISH FLUENCY.—

(1) EDUCATION GRANTS.—

(A) ESTABLISHMENT.—The Chief of the Office of Citizenship of the Department (referred to in this paragraph as the ''Chief'') shall establish a grant program to provide grants in an amount not to exceed $500 to assist legal residents of the United States who declare an intent to apply for citizenship in the United States to meet the requirements under section 312 of the Immigration and Nationality Act (8 U.S.C. 1423).

(B) USE OF FUNDS.—Grant funds awarded under this paragraph shall be paid directly

to an accredited institution of higher education or other qualified educational institution (as determined by the Chief) for tuition, fees, books, and other educational resources required by a course on the English language in which the legal resident is enrolled.

(C) APPLICATION.—A legal resident desiring a grant under this paragraph shall submit an application to the Chief at such time, in such manner, and accompanied by such information as the Chief may reasonably require.

(D) PRIORITY.—If insufficient funds are available to award grants to all qualified applicants, the Chief shall give priority based on the financial need of the applicants.

(E) NOTICE.—The Secretary, upon relevant registration of a legal resident with the Department, shall notify such legal resident of the availability of grants under this paragraph for legal residents who declare an intent to apply for United States citizenship.

(F) DEFINITION.—For purposes of this subsection, the term ''legal resident'' means a lawful permanent resident or a lawfully admitted alien who, in order to adjust status to that of a lawful permanent resident must demonstrate a knowledge of the English language or satisfactory pursuit of a course of study to acquire such knowledge of the English language.

(2) FASTER CITIZENSHIP FOR ENGLISH FLUENCY.—Section 316 (8 U.S.C. 1427) is amended by adding at the end the following:

''(g) A lawful permanent resident of the United States who demonstrates English fluency, in accordance with regulations prescribed by the Secretary of Homeland Security, in consultation with the Secretary of State, will satisfy the residency requirement under subsection (a) upon the completion of 4 years of continuous legal residency in the United States.''.

(3) SAVINGS PROVISION.—Nothing in this subsection shall be construed to—

(A) modify the English language requirements for naturalization under section 312(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1423(a)(1)); or

(B) influence the naturalization test redesign process of the Office of Citizenship (except for the requirement under subsection (h)(2)).

(d) AMERICAN CITIZENSHIP GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a competitive grant program to provide financial assistance for—

(A) efforts by entities (including veterans and patriotic organizations) certified by the Office of Citizenship to promote the patriotic integration of prospective citizens into the American way of life by providing civics, history, and English as a second language courses, with a specific emphasis on attachment to principles of the Constitution of the United States, the heroes of American history (including military heroes), and the meaning of the Oath of Allegiance; and

(B) other activities approved by the Secretary to promote the patriotic integration of prospective citizens and the implementation of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including grants—

(i) to promote an understanding of the form of government and history of the United States; and

(ii) to promote an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States.

(2) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the United States Citizenship Foundation, if the foundation is established under subsection (e), for grants under this subsection.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(e) FUNDING FOR THE OFFICE OF CITIZENSHIP.—

(1) AUTHORIZATION.—The Secretary, acting through the Director of the Bureau of Citizenship and Immigration Services, is authorized to establish the United States Citizenship Foundation (referred to in this subsection as the ''Foundation''), an organization duly incorporated in the District of Columbia, exclusively for charitable and educational purposes to support the functions of the Office of Citizenship.

(2) DEDICATED FUNDING.—

(A) IN GENERAL.—Not less than 1.5 percent of the funds made available to the Bureau of Citizenship and Immigration Services from fees shall be dedicated to the functions of the Office of Citizenship, which shall include the patriotic integration of prospective citizens into—

(i) American common values and traditions, including an understanding of American history and the principles of the Constitution of the United States; and

(ii) civic traditions of the United States, including the Pledge of Allegiance, respect for the flag of the United States, and voting in public elections.

(B) SENSE OF CONGRESS.—It is the sense of Congress that dedicating increased funds to the Office of Citizenship should not result in an increase in fees charged by the Bureau of Citizenship and Immigration Services.

(3) GIFTS.—

(A) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(B) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the mission of the Office of Citizenship, including the functions described in paragraph (2)(A).

(f) RESTRICTION ON USE OF FUNDS.—No funds appropriated to carry out a program under this subsection (d) or (e) may be used to organize individuals for the purpose of political activism or advocacy.

(g) REPORTING REQUIREMENT.—

(1) IN GENERAL.—The Chief of the Office of Citizenship shall submit an annual report to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on the Judiciary of the Senate, the Committee on Education and the Workforce of the House of Representatives, and the Committee on the Judiciary of the House of Representatives.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a list of the entities that have received funds from the Office of Citizenship during the reporting period under this section and the amount of funding received by each such entity;

(B) an evaluation of the extent to which grants received under this section successfully promoted an understanding of—

(i) the English language; and

(ii) American history and government, including the heroes of American history, the meaning of the Oath of Allegiance, and an attachment to the principles of the Constitution of the United States; and

(C) information about the number of legal residents who were able to achieve the knowledge described under paragraph (2) as a result of the grants provided under this section.

(h) OATH OR AFFIRMATION OF RENUNCIATION AND ALLEGIANCE.—

(1) REVISION OF OATH.—Section 337 (8 U.S.C. 1448) is amended—

(A) in subsection (a), by striking ''under section 310(b) an oath'' and all that follows through ''personal moral code.'' and inserting ''under section 310(b), the oath (or affirmation) of allegiance prescribed in subsection (e).''; and

(B) by adding at the end the following:

''(e)(1) Subject to paragraphs (2) and (3), the oath (or affirmation) of allegiance prescribed in this subsection is as follows: 'I take this oath solemnly, freely, and without any mental reservation. I absolutely and entirely renounce all allegiance to any foreign state or power of which I have been a subject or citizen. My fidelity and allegiance from this day forward are to the United States of America. I will bear true faith and allegiance to the Constitution and laws of the United States, and will support and defend them against all enemies, foreign and domestic. I will bear arms, or perform noncombatant military or civilian service, on behalf of the United States when required by law. This I do solemnly swear, so help me God.'.

''(2) If a person, by reason of religious training and belief (or individual interpretation thereof) or for other reasons of good conscience, cannot take the oath prescribed in paragraph (1)—

''(A) with the term 'oath' included, the term 'affirmation' shall be substituted for the term 'oath'; and

''(B) with the phrase 'so help me God' included, the phrase 'so help me God' shall be omitted.

''(3) If a person shows by clear and convincing evidence to the satisfaction of the Attorney General that such person, by reason of religious training and belief, cannot take the oath prescribed in paragraph (1)—

''(A) because such person is opposed to the bearing of arms in the Armed Forces of the United States, the words 'bear arms, or' shall be omitted; and

''(B) because such person is opposed to any type of service in the Armed Forces of the United States, the words 'bear arms, or' and 'noncombatant military or' shall be omitted.

''(4) As used in this subsection, the term 'religious training and belief'—

''(A) means a belief of an individual in relation to a Supreme Being involving duties superior to those arising from any human relation; and

''(B) does not include essentially political, sociological, or philosophical views or a merely personal moral code.

''(5) Any reference in this title to 'oath' or 'oath of allegiance' under this section shall be deemed to refer to the oath (or affirmation) of allegiance prescribed under this subsection.''.

(2) HISTORY AND GOVERNMENT TEST.—The Secretary shall incorporate a knowledge and understanding of the meaning of the Oath of Allegiance into the history and government test given to applicants for citizenship.

(3) NOTICE TO FOREIGN EMBASSIES.—Upon the naturalization of a new citizen, the Secretary, in cooperation with the Secretary of State, shall notify the embassy of the country of which the new citizen was a citizen or subject that such citizen has—

(A) renounced allegiance to that foreign country; and

(B) sworn allegiance to the United States.

(4) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date that is 6 months after the date of enactment of this Act.

(i) ESTABLISHMENT OF NEW CITIZENS AWARD PROGRAM.—

(1) ESTABLISHMENT.—There is established a new citizens award program to recognize citizens who—

(A) have made an outstanding contribution to the United States; and

(B) were naturalized during the 10-year period ending on the date of such recognition.

(2) PRESENTATION AUTHORIZED.—

(A) IN GENERAL.—The President is authorized to present a medal, in recognition of outstanding contributions to the United States, to citizens described in paragraph (1).

(B) MAXIMUM NUMBER OF AWARDS.—Not more than 10 citizens may receive a medal under this subsection in any calendar year.

(3) DESIGN AND STRIKING.—The Secretary of the Treasury shall strike a medal with suitable emblems, devices, and inscriptions, to be determined by the President.

(4) NATIONAL MEDALS.—The medals struck pursuant to this subsection are national medals for purposes of chapter 51 of title 31, United States Code.

(j) NATURALIZATION CEREMONIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the National Park Service, the Archivist of the United States, and other appropriate Federal officials, shall develop and implement a strategy to enhance the public awareness of naturalization ceremonies.

(2) VENUES.—In developing the strategy under this subsection, the Secretary shall consider the use of outstanding and historic locations as venues for select naturalization ceremonies.

(3) REPORTING REQUIREMENT.—The Secretary shall submit an annual report to Congress that includes—

(A) the content of the strategy developed under this subsection; and

(B) the progress made towards the implementation of such strategy.

SEC. 644. SUPPLEMENTAL IMMIGRATION FEE.

(a) AUTHORIZATION OF FEE.—

(1) IN GENERAL.—Subject to paragraph (2), any alien who receives any immigration benefit under this title, or the amendments made by this title, shall, before receiving such benefit, pay a fee to the Secretary in an amount equal to $500, in addition to other applicable fees and penalties imposed under this title, or the amendments made by this title.

(2) FEES CONTINGENT ON APPROPRIATIONS.—No fee may be collected under this section except to the extent that the expenditure of the fee to pay the costs of activities and services for which the fee is imposed, as described in subsection (b), is provided for in advance in an appropriations Act.

(b) DEPOSIT AND EXPENDITURE OF FEES.—

(1) DEPOSIT.—Amounts collected under subsection (a) shall be deposited as an offsetting collection in, and credited to, the accounts providing appropriations—

(A) to carry out the apprehension and detention of any alien who is inadmissible by reason of any offense described in section 212(a);

(B) to carry out the apprehension and detention of any alien who is deportable for any offense under section 237(a);

(C) to acquire border sensor and surveillance technology;

(D) for air and marine interdiction, operations, maintenance, and procurement;

(E) for construction projects in support of the United States Customs and Border Protection;

(F) to train Federal law enforcement personnel; and

(G) for maritime security activities.

(2) AVAILABILITY OF FEES.—Amounts deposited under paragraph (1) shall remain available until expended for the activities and services described in paragraph (1).

SEC. 645. ADDRESSING POVERTY IN MEXICO.

(a) FINDINGS.—Congress finds the following:

(1) There is a strong correlation between economic freedom and economic prosperity.

(2) Trade policy, fiscal burden of government, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market activity are key factors in economic freedom.

(3) Poverty in Mexico, including rural poverty, can be mitigated through strengthened economic freedom within Mexico.

(4) Strengthened economic freedom in Mexico can be a major influence in mitigating illegal immigration.

(5) Advancing economic freedom within Mexico is an important part of any comprehensive plan to understanding the sources of poverty and the path to economic prosperity.

(b) GRANT AUTHORIZED.—The Secretary of State may award a grant to a land grant university in the United States to establish a national program for a broad, university-based Mexican rural poverty mitigation program.

(c) FUNCTIONS OF MEXICAN RURAL POVERTY MITIGATION PROGRAM.—The program established pursuant to subsection (b) shall—

(1) match a land grant university in the United States with the lead Mexican public university in each of Mexico's 31 states to provide state-level coordination of rural poverty programs in Mexico;

(2) establish relationships and coordinate programmatic ties between universities in the United States and universities in Mexico to address the issue of rural poverty in Mexico;

(3) establish and coordinate relationships with key leaders in the United States and Mexico to explore the effect of rural poverty on illegal immigration of Mexicans into the United States; and

(4) address immigration and border security concerns through a university-based, binational approach for long-term institutional change.

(d) USE OF FUNDS.—

(1) AUTHORIZED USES.—Grant funds awarded under this section may be used—

(A) for education, training, technical assistance, and any related expenses (including personnel and equipment) incurred by the grantee in implementing a program described in subsection (a); and

(B) to establish an administrative structure for such program in the United States.

(2) LIMITATIONS.—Grant funds awarded under this section may not be used for activities, responsibilities, or related costs incurred by entities in Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such funds as may be necessary to carry out this section.

TITLE VII—MISCELLANEOUS

Subtitle A—Immigration Litigation Reduction

CHAPTER 1—APPEALS AND REVIEW

SEC. 701. ADDITIONAL IMMIGRATION PERSONNEL.

(a) DEPARTMENT OF HOMELAND SECURITY.—

(1) TRIAL ATTORNEYS.—In each of fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations for such purpose, increase the number of positions for attorneys in the Office of General Counsel of the Department who represent the Department in immigration matters by not less than 100 above the number of such positions for which funds were made available during each preceding fiscal year.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection.

(b) DEPARTMENT OF JUSTICE.—

(1) LITIGATION ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of positions for attorneys in the Office of Immigration Litigation of the Department of Justice.

(2) UNITED STATES ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose, increase by not less than 50 the number of attorneys in the United States Attorneys' office to litigate immigration cases in the Federal courts.

(3) IMMIGRATION JUDGES.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase by not less than 20 the number of full-time immigration judges compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 80 the number of positions for personnel to support the immigration judges described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year.

(4) STAFF ATTORNEYS.—In each of fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations for such purpose—

(A) increase by not less than 10 the number of positions for full-time staff attorneys in the Board of Immigration Appeals compared to the number of such positions for which funds were made available during the preceding fiscal year; and

(B) increase by not less than 10 the number of positions for personnel to support the staff attorneys described in subparagraph (A) compared to the number of such positions for which funds were made available during the preceding fiscal year

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General for each of the fiscal years 2007 through 2011 such sums as may be necessary to carry out this subsection, including the hiring of necessary support staff.

(c) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—In each of the fiscal years 2007 through 2011, the Director of the Administrative Office of the United States Courts shall, subject to the availability of appropriations, increase by not less than 50 the number of attorneys in the Federal Defenders Program who litigate criminal immigration cases in the Federal courts.

CHAPTER 2—IMMIGRATION REVIEW REFORM

SEC. 702. BOARD OF IMMIGRATION APPEALS.

(a) COMPOSITION AND APPOINTMENT.—Notwithstanding any other provision of law, the Board of Immigration Appeals of the Department of Justice (referred to in this section as the ''Board''), shall be composed of a Chair and 22 other immigration appeals judges, who shall be appointed by the Attorney General. Upon the expiration of a term of office, a Board member may continue to act until a successor has been appointed and qualified.

(b) QUALIFICATIONS.—Each member of the Board, including the Chair, shall—

(1) be an attorney in good standing of a bar of a State or the District of Columbia;

(2) have at least—

(A) 7 years of professional, legal expertise; or

(B) 5 years of professional, legal expertise in immigration and nationality law; and

(3) meet the minimum appointment requirements of an administrative law judge under title 5, United States Code.

(c) DUTIES OF THE CHAIR.—The Chair of the Board, subject to the supervision of the Director of the Executive Office for Immigration Review, shall—

(1) be responsible, on behalf of the Board, for the administrative operations of the Board and shall have the power to appoint such administrative assistants, attorneys, clerks, and other personnel as may be needed for that purpose;

(2) direct, supervise, and establish internal operating procedures and policies of the Board;

(3) designate a member of the Board to act as Chair if the Chair is absent or unavailable;

(4) adjudicate cases as a member of the Board;

(5) form 3-member panels as provided by subsection (g);

(6) direct that a case be heard en banc as provided by subsection (h); and

(7) exercise such other authorities as the Director may provide.

(d) BOARD MEMBERS DUTIES.—In deciding a case before the Board, the Board—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with the authority provided in this section and any regulations established in accordance with this section.

(e) JURISDICTION.—

(1) IN GENERAL.—The Board shall have jurisdiction to hear appeals described in section 1003.1(b) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(2) LIMITATION.—The Board shall not have jurisdiction to hear an appeal of a decision of an immigration judge for an order of removal entered in absentia.

(f) SCOPE OF REVIEW.—

(1) FINDINGS OR FACT.—The Board shall—

(A) accept findings of fact determined by an immigration judge, including findings as to the credibility of testimony, unless the findings are clearly erroneous; and

(B) give due deference to an immigration judge's application of the law to the facts.

(2) QUESTIONS OF LAW.—The Board shall review de novo questions of law, discretion, and judgment, and all other issues in appeals from decisions of immigration judges.

(3) APPEALS FROM OFFICERS' DECISIONS.—

(A) STANDARD OF REVIEW.—The Board shall review de novo all questions arising in appeals from decisions issued by officers of the Department.

(B) PROHIBITION OF FACT FINDING.—Except for taking administrative notice of commonly known facts such as current events or the contents of official documents, the Board may not engage in fact-finding in the course of deciding appeals.

(C) REMAND.—A party asserting that the Board cannot properly resolve an appeal without further fact-finding shall file a motion for remand. If further fact-finding is needed in a case, the Board shall remand the proceeding to the immigration judge or, as appropriate, to the Secretary.

(g) PANELS.—

(1) IN GENERAL.—Except as provided in paragraph (5) all cases shall be subject to review by a 3-member panel. The Chair shall divide the Board into 3-member panels and designate a presiding member.

(2) AUTHORITY.—Each panel may exercise the appropriate authority of the Board that is necessary for the adjudication of cases before the Board.

(3) QUORUM.—Two members appointed to a panel shall constitute a quorum for such panel.

(4) CHANGES IN COMPOSITION.—The Chair may from time to time make changes in the composition of a panel and of the presiding member of a panel.

(5) PRESIDING MEMBER DECISIONS.—The presiding member of a panel may act alone on any motion as provided in paragraphs (2) and (3) of subsection (i) and may not otherwise dismiss or determine an appeal as a single Board member.

(h) EN BANC PROCESS.—

(1) IN GENERAL.—The Board may on its own motion, by a majority vote of the Board members, or by direction of the Chair—

(A) consider any case as the full Board en banc; or

(B) reconsider as the full Board en banc any case that has been considered or decided by a 3-member panel or by a limited en banc panel.

(2) QUORUM.—A majority of the Board members shall constitute a quorum of the Board sitting en banc.

(i) DECISIONS OF THE BOARD.—

(1) AFFIRMANCE WITHOUT OPINION.—Upon individualized review of a case, the Board may affirm the decision of an immigration judge without opinion only if—

(A) the decision of the immigration judge resolved all issues in the case;

(B) the issue on appeal is squarely controlled by existing Board or Federal court precedent and does not involve the application of precedent to a novel fact situation;

(C) the factual and legal questions raised on appeal are so insubstantial that the case does not warrant the issuance of a written opinion in the case; and

(D) the Board approves both the result reached in the decision below and all of the reasoning of that decision.

(2) SUMMARY DISMISSAL OF APPEALS.—The 3-member panel or the presiding member acting alone may summarily dismiss any appeal or portion of any appeal in any case which—

(A) the party seeking the appeal fails to specify the reasons for the appeal;

(B) the only reason for the appeal specified by such party involves a finding of fact or a conclusion of law that was conceded by that party at a prior proceeding;

(C) the appeal is from an order that granted such party the relief that had been requested;

(D) the appeal is determined to be filed for an improper purpose, such as to cause unnecessary delay; or

(E) the appeal lacks an arguable basis in fact or in law and is not supported by a good faith argument for extension, modification, or reversal of existing law.

(3) UNOPPOSED DISPOSITIONS.—The 3-member panel or the presiding member acting alone may—

(A) grant an unopposed motion or a motion to withdraw an appeal pending before the Board; or

(B) adjudicate a motion to remand any appeal—

(i) from the decision of an officer of the Department if the appropriate official of the Department requests that the matter be remanded back for further consideration;

(ii) if remand is required because of a defective or missing transcript; or

(iii) if remand is required for any other procedural or ministerial issue.

(4) NOTICE OF RIGHT TO APPEAL.—The decision by the Board shall include notice to the alien of the alien's right to file a petition for review in a United States Court of Appeals not later than 30 days after the date of the decision.

SEC. 703. IMMIGRATION JUDGES.

(a) APPOINTMENT OF IMMIGRATION JUDGES.—

(1) IN GENERAL.—The Chief Immigration Judge (as described in section 1003.9 of title 8, Code of Federal Regulations, or any corresponding similar regulation) and other immigration judges shall be appointed by the Attorney General. Upon the expiration of a term of office, the immigration judge may continue to act until a successor has been appointed and qualified.

(2) QUALIFICATIONS.—Each immigration judge, including the Chief Immigration Judge, shall be an attorney in good standing of a bar of a State or the District of Columbia and shall have at least 5 years of professional, legal expertise or at least 3 years professional or legal expertise in immigration and nationality law.

(b) JURISDICTION.—An Immigration judge shall have the authority to hear matters related to any removal proceeding pursuant to section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) described in section 1240.1(a) of title 8, Code of Federal Regulations (or any corresponding similar regulation).

(c) DUTIES OF IMMIGRATION JUDGES.—In deciding a case, an immigration judge—

(1) shall exercise independent judgment and discretion; and

(2) may take any action that is appropriate and necessary for the disposition of such case that is consistent with their authorities under this section and regulations established in accordance with this section.

(d) REVIEW.—Decisions of immigration judges are subject to review by the Board of Immigration Appeals in any case in which the Board has jurisdiction.

SEC. 704. REMOVAL AND REVIEW OF JUDGES.

No immigration judge or member of the Board may be removed or otherwise subject to disciplinary or adverse action for their exercise of independent judgment and discretion as prescribed by this chapter.

SEC. 705. LEGAL ORIENTATION PROGRAM.

(a) CONTINUED OPERATION.—The Director of the Executive Office for Immigration Review shall continue to operate a legal orientation program to provide basic information about immigration court procedures for immigration detainees and shall expand the legal orientation program to provide such information on a nationwide basis.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out such legal orientation program.

SEC. 706. REGULATIONS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall issue regulations to implement this subtitle.

SEC. 707. GAO STUDY ON THE APPELLATE PROCESS FOR IMMIGRATION APPEALS.

(a) IN GENERAL.—The Comptroller General of the United States shall, not later than 180 days after enactment of this Act, conduct a study on the appellate process for immigration appeals.

(b) REQUIREMENTS.—In conducting the study under subsection (a), the Comptroller General shall consider the possibility of consolidating all appeals from the Board of Immigration Appeals and habeas corpus petitions in immigration cases into 1 United States Court of Appeals, by—

(1) consolidating all such appeals into an existing circuit court, such as the United States Court of Appeals for the Federal Circuit;

(2) consolidating all such appeals into a centralized appellate court consisting of active circuit court judges temporarily assigned from the various circuits, in a manner similar to the Foreign Intelligence Surveillance Court or the Temporary Emergency Court of Appeals; or

(3) implementing a mechanism by which a panel of active circuit court judges shall have the authority to reassign such appeals

from circuits with relatively high caseloads to circuits with relatively low caseloads.

(c) FACTORS TO CONSIDER.—In conducting the study under subsection (a), the Comptroller General, in consultation with the Attorney General, the Secretary, and the Judicial Conference of the United States, shall consider—

(1) the resources needed for each alternative, including judges, attorneys and other support staff, case management techniques including technological requirements, physical infrastructure, and other procedural and logistical issues as appropriate;

(2) the impact of each plan on various circuits, including their caseload in general and caseload per panel;

(3) the possibility of utilizing case management techniques to reduce the impact of any consolidation option, such as requiring certificates of reviewability, similar to procedures for habeas and existing summary dismissal procedures in local rules of the courts of appeals;

(4) the effect of reforms in this Act on the ability of the circuit courts to adjudicate such appeals;

(5) potential impact, if any, on litigants; and

(6) other reforms to improve adjudication of immigration matters, including appellate review of motions to reopen and reconsider, and attorney fee awards with respect to review of final orders of removal.

SEC. 708. SENIOR JUDGE PARTICIPATION IN THE SELECTION OF MAGISTRATES.

Section 631(a) of title 28, United States Code, is amended by striking ''Northern Mariana Islands'' the first place it appears and inserting ''Northern Mariana Islands, including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title,''.

Subtitle B—Citizenship Assistance for Members of the Armed Services

SEC. 711. SHORT TITLE.

This subtitle may be cited as the ''Kendell Frederick Citizenship Assistance Act''.

SEC. 712. WAIVER OF REQUIREMENT FOR FINGERPRINTS FOR MEMBERS OF THE ARMED FORCES.

Notwithstanding any other provision of law or any regulation, the Secretary shall use the fingerprints provided by an individual at the time the individual enlists in the Armed Forces to satisfy any requirement for fingerprints as part of an application for naturalization if the individual—

(1) may be naturalized pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440);

(2) was fingerprinted in accordance with the requirements of the Department of Defense at the time the individual enlisted in the Armed Forces; and

(3) submits an application for naturalization not later than 12 months after the date the individual enlisted in the Armed Forces.

SEC. 713. PROVISION OF INFORMATION ON NATURALIZATION TO MEMBERS OF THE ARMED FORCES.

The Secretary shall—

(1) establish a dedicated toll-free telephone service available only to members of the Armed Forces and the families of such members to provide information related to naturalization pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440), including the status of an application for such naturalization;

(2) ensure that the telephone service required by paragraph (1) is operated by employees of the Department who—

(A) have received specialized training on the naturalization process for members of the Armed Forces and the families of such members; and

(B) are physically located in the same unit as the military processing unit that adjudicates applications for naturalization pursuant to such section 328 or 329; and

(3) implement a quality control program to monitor, on a regular basis, the accuracy and quality of information provided by the employees who operate the telephone service required by paragraph (1), including the breadth of the knowledge related to the naturalization process of such employees.

SEC. 714. PROVISION OF INFORMATION ON NATURALIZATION TO THE PUBLIC.

Not later than 30 days after the date that a modification to any law or regulation related to the naturalization process becomes effective, the Secretary shall update the appropriate application form for naturalization, the instructions and guidebook for obtaining naturalization, and the Internet website maintained by the Secretary to reflect such modification.

SEC. 715. REPORTS.

(a) ADJUDICATION PROCESS.—Not later than 120 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate congressional committees a report on the entire process for the adjudication of an application for naturalization filed pursuant to section 328 or 329 of the Immigration and Nationality Act (8 U.S.C. 1439 or 1440), including the process that begins at the time the application is mailed to, or received by, the Secretary, regardless of whether the Secretary determines that such application is complete, through the final disposition of such application. Such report shall include a description of—

(1) the methods of the Secretary to prepare, handle, and adjudicate such applications;

(2) the effectiveness of the chain of authority, supervision, and training of employees of the Government or of other entities, including contract employees, who have any role in the such process or adjudication; and

(3) the ability of the Secretary to use technology to facilitate or accomplish any aspect of such process or adjudication.

(b) IMPLEMENTATION.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the implementation of this subtitle by the Secretary, including studying any technology that may be used to improve the efficiency of the naturalization process for members of the Armed Forces.

(2) REPORT.—Not later than 180 days after the date that the Comptroller General submits the report required by subsection (a), the Comptroller General shall submit to the appropriate congressional committees a report on the study required by paragraph (1). The report shall include any recommendations of the Comptroller General for improving the implementation of this subtitle by the Secretary.

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Armed Services and the Committee on the Judiciary of the Senate; and

(2) the Committee on Armed Services and the Committee on the Judiciary of the House of Representatives.

Subtitle C—State Court Interpreter Grant Program

SEC. 721. SHORT TITLE.

This subtitle may be cited as the ''State Court Interpreter Grant Program Act''.

SEC. 722. FINDINGS.

Congress finds that—

(1) the fair administration of justice depends on the ability of all participants in a courtroom proceeding to understand that proceeding, regardless of their English proficiency;

(2) 19 percent of the population of the United States over 5 years of age speaks a language other than English at home;

(3) only qualified court interpreters can ensure that persons with limited English proficiency comprehend judicial proceedings in which they are a party;

(4) the knowledge and skills required of a qualified court interpreter differ substantially from those required in other interpretation settings, such as social service, medical, diplomatic, and conference interpreting;

(5) the Federal Government has demonstrated its commitment to equal administration of justice regardless of English proficiency;

(6) regulations implementing title VI of the Civil Rights Act of 1964, as well as the guidance issued by the Department of Justice pursuant to Executive Order 13166, issued August 11, 2000, clarify that all recipients of Federal financial assistance, including State courts, are required to take reasonable steps to provide meaningful access to their proceedings for persons with limited English proficiency;

(7) 34 States have developed, or are developing, court interpreting programs;

(8) robust, effective court interpreter programs—

(A) actively recruit skilled individuals to be court interpreters;

(B) train those individuals in the interpretation of court proceedings;

(C) develop and use a thorough, systematic certification process for court interpreters; and

(D) have sufficient funding to ensure that a qualified interpreter will be available to the court whenever necessary; and

(9) Federal funding is necessary to—

(A) encourage State courts that do not have court interpreter programs to develop them;

(B) assist State courts with nascent court interpreter programs to implement them;

(C) assist State courts with limited court interpreter programs to enhance them; and

(D) assist State courts with robust court interpreter programs to make further improvements and share successful programs with other States.

SEC. 723. STATE COURT INTERPRETER PROGRAM.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Administrator of the Office of Justice Programs of the Department of Justice (referred to in this section as the ''Administrator'') shall make grants, in accordance with such regulations as the Attorney General may prescribe, to State courts to develop and implement programs to assist individuals with limited English proficiency to access and understand State court proceedings in which they are a party.

(2) TECHNICAL ASSISTANCE.—The Administrator shall allocate, for each fiscal year, $500,000 of the amount appropriated pursuant to section 724 to be used to establish a court interpreter technical assistance program to assist State courts receiving grants under this subtitle.

(b) USE OF GRANTS.—Grants awarded under subsection (a) may be used by State courts to—

(1) assess regional language demands;

(2) develop a court interpreter program for the State courts;

(3) develop, institute, and administer language certification examinations;

(4) recruit, train, and certify qualified court interpreters;

(5) pay for salaries, transportation, and technology necessary to implement the

court interpreter program developed under paragraph (2); and

(6) engage in other related activities, as prescribed by the Attorney General.

(c) APPLICATION.—

(1) IN GENERAL.—The highest State court of each State desiring a grant under this section shall submit an application to the Administrator at such time, in such manner, and accompanied by such information as the Administrator may reasonably require.

(2) STATE COURTS.—The highest State court of each State submitting an application under paragraph (1) shall include in the application—

(A) an identification of each State court in that State which would receive funds from the grant;

(B) the amount of funds each State court identified under subparagraph (A) would receive from the grant; and

(C) the procedures the highest State court would use to directly distribute grant funds to State courts identified under subparagraph (A).

(d) STATE COURT ALLOTMENTS.—

(1) BASE ALLOTMENT.—From amounts appropriated for each fiscal year pursuant to section 724, the Administrator shall allocate $100,000 to each of the highest State court of each State, which has an application approved under subsection (c).

(2) DISCRETIONARY ALLOTMENT.—From amounts appropriated for each fiscal year pursuant to section 724, the Administrator shall allocate a total of $5,000,000 to the highest State court of States that have extraordinary needs that must be addressed in order to develop, implement, or expand a State court interpreter program.

(3) ADDITIONAL ALLOTMENT.—In addition to the allocations made under paragraphs (1) and (2), the Administrator shall allocate to each of the highest State court of each State, which has an application approved under subsection (c), an amount equal to the product reached by multiplying—

(A) the unallocated balance of the amount appropriated for each fiscal year pursuant to section 724; and

(B) the ratio between the number of people over 5 years of age who speak a language other than English at home in the State and the number of people over 5 years of age who speak a language other than English at home in all the States that receive an allocation under paragraph (1), as those numbers are determined by the Bureau of the Census.

SEC. 724. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $15,000,000 for each of the fiscal years 2007 through 2010 to carry out this subtitle.

Subtitle D—Border Infrastructure and Technology Modernization

SEC. 731. SHORT TITLE.

This subtitle may be cited as the ''Border Infrastructure and Technology Modernization Act''.

SEC. 732. DEFINITIONS.

In this subtitle:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

SEC. 733. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) REQUIREMENT TO UPDATE.—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the Bureau of Customs and Border Protection in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, on page 67) and submit such updated study to Congress.

(b) CONSULTATION.—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 734; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

SEC. 734. NATIONAL LAND BORDER SECURITY PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, an annually thereafter, the Secretary, after consultation with representatives of Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border, shall submit a National Land Border Security Plan to Congress.

(b) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

SEC. 735. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope, including personnel, of the Customs–Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) SOUTHERN BORDER DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall implement, on a demonstration basis, at least 1 Customs–Trade Partnership Against Terrorism program, which has been successfully implemented along the northern border, along the southern border.

(b) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

SEC. 736. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a technology demonstration program to—

(1) test and evaluate new port of entry technologies;

(2) refine port of entry technologies and operational concepts; and

(3) train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTING.—Under the technology demonstration program, the Secretary shall test technologies that enhance port of entry operations, including operations related to—

(A) inspections;

(B) communications;

(C) port tracking;

(D) identification of persons and cargo;

(E) sensory devices;

(F) personal detection;

(G) decision support; and

(H) the detection and identification of weapons of mass destruction.

(2) DEVELOPMENT OF FACILITIES.—At a demonstration site selected pursuant to subsection (c)(2), the Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including—

(A) cross-training among agencies;

(B) advanced law enforcement training; and

(C) equipment orientation.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion to not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 1-year period ending on the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including technologies described in subparagraphs (A) through (H) of subsection (b)(1).

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report submitted under paragraph (1) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

SEC. 737. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) such sums as may be necessary for the fiscal years 2007 through 2011 to carry out the provisions of section 733(a);

(2) to carry out section 733(d)—

(A) $100,000,000 for each of the fiscal years 2007 through 2011; and

(B) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out section 735(a)—

(A) $30,000,000 for fiscal year 2007, of which $5,000,000 shall be made available to fund the demonstration project established in section 736(a)(2); and

(B) such sums as may be necessary for the fiscal years 2008 through 2011;

(4) to carry out section 735(b)—

(A) $5,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(5) to carry out section 736, provided that not more than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

(A) $50,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for each of the fiscal years 2008 through 2011.

(b) INTERNATIONAL AGREEMENTS.—Amounts authorized to be appropriated under this subtitle may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this subtitle.

Subtitle E—Family Humanitarian Relief

SEC. 741. SHORT TITLE.

This subtitle may be cited as the ''September 11 Family Humanitarian Relief and Patriotism Act''.

SEC. 742. ADJUSTMENT OF STATUS FOR CERTAIN NONIMMIGRANT VICTIMS OF TERRORISM.

(a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—The status of any alien described in subsection (b) shall be adjusted by the Secretary to that of an alien lawfully admitted for permanent residence, if the alien—

(A) applies for such adjustment not later than 2 years after the date on which the Secretary promulgates final regulations to implement this section; and

(B) is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for inadmissibility specified in paragraphs (4), (5), (6)(A), (7)(A), and (9)(B) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(2) RULES IN APPLYING CERTAIN PROVISIONS.—

(A) IN GENERAL.—In the case of an alien described in subsection (b) who is applying for adjustment of status under this section—

(i) the provisions of section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) shall not apply; and

(ii) the Secretary may grant the alien a waiver on the grounds of inadmissibility under subparagraphs (A) and (C) of section 212(a)(9) of such Act (8 U.S.C. 1182(a)(9)).

(B) STANDARDS.—In granting waivers under subparagraph (A)(ii), the Secretary shall use standards used in granting consent under subparagraphs (A)(iii) and (C)(ii) of such section 212(a)(9).

(3) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) APPLICATION PERMITTED.—An alien present in the United States who has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order, apply for adjustment of status under paragraph (1).

(B) MOTION NOT REQUIRED.—An alien described in subparagraph (A) may not be required, as a condition of submitting or granting such application, to file a separate motion to reopen, reconsider, or vacate such order.

(C) EFFECT OF DECISION.—If the Secretary grants a request under subparagraph (A), the Secretary shall cancel the order. If the Secretary renders a final administrative decision to deny the request, the order shall be effective and enforceable to the same extent as if the application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—The benefits provided by subsection (a) shall apply to any alien who—

(1) was lawfully present in the United States as a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) on September 10, 2001;

(2) was, on such date, the spouse, child, dependent son, or dependent daughter of an alien who—

(A) was lawfully present in the United States as a nonimmigrant alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) on such date; and

(B) died as a direct result of a specified terrorist activity; and

(3) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall establish, by regulation, a process by which an alien subject to a final order of removal may seek a stay of such order based on the filing of an application under subsection (a).

(2) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary shall not order any alien to be removed from the United States, if the alien is in removal proceedings under any provision of such Act and has applied for adjustment of status under subsection (a), except where the Secretary has rendered a final administrative determination to deny the application.

(3) WORK AUTHORIZATION.—The Secretary shall authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application.

(d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary shall provide to applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

(2) aliens subject to removal proceedings under section 240 of such Act (8 U.S.C. 1229a).

SEC. 743. CANCELLATION OF REMOVAL FOR CERTAIN IMMIGRANT VICTIMS OF TERRORISM.

(a) IN GENERAL.—Subject to the provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than subsections (b)(1), (d)(1), and (e) of section 240A of such Act (8 U.S.C. 1229b), the Secretary shall, under such section 240A, cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b), if the alien applies for such relief.

(b) ALIENS ELIGIBLE FOR CANCELLATION OF REMOVAL.—The benefits provided by subsection (a) shall apply to any alien who—

(1) was, on September 10, 2001, the spouse, child, dependent son, or dependent daughter of an alien who died as a direct result of a specified terrorist activity; and

(2) was deemed to be a beneficiary of, and by, the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note).

(c) STAY OF REMOVAL; WORK AUTHORIZATION.—

(1) IN GENERAL.—The Secretary shall provide by regulation for an alien subject to a final order of removal to seek a stay of such order based on the filing of an application under subsection (a).

(2) WORK AUTHORIZATION.—The Secretary shall authorize an alien who has applied for cancellation of removal under subsection (a) to engage in employment in the United States during the pendency of such application.

(d) MOTIONS TO REOPEN REMOVAL PROCEEDINGS.—

(1) IN GENERAL.—Notwithstanding any limitation imposed by law on motions to reopen removal proceedings (except limitations premised on an alien's conviction of an aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))), any alien who has become eligible for cancellation of removal as a result of the enactment of this section may file 1 motion to reopen removal proceedings to apply for such relief.

(2) FILING PERIOD.—The Secretary shall designate a specific time period in which all such motions to reopen are required to be filed. The period shall begin not later than 60 days after the date of enactment of this Act and shall extend for a period not to exceed 240 days.

SEC. 744. EXCEPTIONS.

Notwithstanding any other provision of this subtitle, an alien may not be provided relief under this subtitle if the alien is—

(1) inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or deportable under paragraph (2) or (4) of section 237(a) of such Act (8 U.S.C. 1227(a)), including any individual culpable for a specified terrorist activity; or

(2) a family member of an alien described in paragraph (1).

SEC. 745. EVIDENCE OF DEATH.

For purposes of this subtitle, the Secretary shall use the standards established under section 426 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism

(USA PATRIOT ACT) Act of 2001 (115 Stat. 362) in determining whether death occurred as a direct result of a specified terrorist activity.

SEC. 746. DEFINITIONS.

(a) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—Except as otherwise specifically provided in this subtitle, the definitions used in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), other than the definitions applicable exclusively to title III of such Act, shall apply in the administration of this subtitle.

(b) SPECIFIED TERRORIST ACTIVITY.—For purposes of this subtitle, the term ''specified terrorist activity'' means any terrorist activity conducted against the Government or the people of the United States on September 11, 2001.

Subtitle F—Other Matters

SEC. 751. NONCITIZEN MEMBERSHIP IN THE ARMED FORCES.

Section 329 of the Immigration and Nationality Act (8 U.S.C. 1440) is amended—

(1) in subsection (b), by striking ''subsection (a)'' and inserting ''subsection (a) and (d)''; and

(2) by adding at the end the following:

''(d) Notwithstanding any other provision of law, except for provisions relating to revocation of citizenship under subsection (c), individuals who are not United States citizens shall not be denied the opportunity to apply for membership in the United States Armed Forces. Such individuals who become active duty members of the United States Armed Forces shall, consistent with subsections (a) through (e) and with the approval of their chain of command, be granted United States citizenship after performing at least 2 years of honorable and satisfactory service on active duty. Not later than 90 days after such requirements are met with respect to an individual, such individual shall be granted United States citizenship.

''(e) An alien described in subsection (d) shall be naturalized without regard to the requirements of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.) and any other requirements, processes, or procedures of the Immigration and Naturalization Service, if the alien—

''(1) filed an application for naturalization in accordance with such procedures to carry out this section as may be established by regulation by the Secretary of Homeland Security or the Secretary of Defense;

''(2) demonstrates to his or her military chain of command, proficiency in the English language, good moral character, and knowledge of the Federal Government and United States history, consistent with the requirements contained in the Immigration and Nationality Act; and

''(3) takes the oath required under section 337 of such Act (8 U.S.C. 1448 et seq.) and participates in an oath administration ceremony in accordance with such Act.''.

SEC. 752. NONIMMIGRANT ALIEN STATUS FOR CERTAIN ATHLETES.

(a) IN GENERAL.—Section 214(c)(4)(A) (8 U.S.C. 1184(c)(4)(A)) is amended by striking clauses (i) and (ii) and inserting the following:

''(i)(I) performs as an athlete, individually or as part of a group or team, at an internationally recognized level of performance;

''(II) is a professional athlete, as defined in section 204(i)(2);

''(III) performs as an athlete, or as a coach, as part of a team or franchise that is located in the United States and a member of a foreign league or association of 15 or more amateur sports teams, if—

''(aa) the foreign league or association is the highest level of amateur performance of that sport in the relevant foreign country;

''(bb) participation in such league or association renders players ineligible, whether on a temporary or permanent basis, to earn a scholarship in, or participate in, that sport at a college or university in the United States under the rules of the National Collegiate Athletic Association (NCAA), and

''(cc) a significant number of the individuals who play in such league or association are drafted by a major sports league or a minor league affiliate of such a sports league, or

''(IV) is a professional athlete or amateur athlete who performs individually or as part of a group in a theatrical ice skating production, and

''(ii) seeks to enter the United States temporarily and solely for the purpose of performing—

''(I) as such an athlete with respect to a specific athletic competition, or

''(II) in the case of an individual described in clause (i)(IV), in a specific theatrical ice skating production or tour.''.

(b) PETITIONS FOR MULTIPLE ALIENS.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)) is amended by adding at the end the following new paragraph:

''(F) The Secretary of Homeland Security shall permit a petition under this subsection to seek classification of more than one alien as a nonimmigrant under section 101(a)(15)(P)(i)(a). The fee charged for such a petition may not be more than the fee charged for a petition seeking classification of one such alien.''.

(c) RELATIONSHIP TO OTHER PROVISIONS OF THE IMMIGRATION AND NATIONALITY ACT.—Section 214(c)(4) (8 U.S.C. 1184(c)(4)), as amended by subsection (c), is further amended by adding at the end the following new paragraph:

''(G) Notwithstanding any other provision of this title, the Secretary of Homeland Security shall permit an athlete, or the employer of an athlete, to seek admission to the United States for such athlete under a provision of this Act other than section 101(a)(15)(P)(i).''.

SEC. 753. EXTENSION OF RETURNING WORKER EXEMPTION.

Section 402(b)(1) of the Save Our Small and Seasonal Businesses Act of 2005 (title IV of division B of Public Law 109–13; 8 U.S.C. 1184 note) is amended by striking ''2006'' and inserting ''2009''.

SEC. 754. SURVEILLANCE TECHNOLOGIES PROGRAMS.

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the

Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of nonpermanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than $5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 755. COMPREHENSIVE IMMIGRATION EFFICIENCY REVIEW.

(a) REVIEW.—The Secretary, in consultation with the Secretary of State, shall conduct a comprehensive review of the immigration procedures in existence as of the date of the enactment of this Act.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to Congress a report, in classified form, if necessary, that—

(1) identifies inefficient immigration procedures; and

(2) outlines a plan to improve the efficiency and responsiveness of the immigration process.

SEC. 756. NORTHERN BORDER PROSECUTION INITIATIVE.

(a) INITIATIVE REQUIRED.—

(1) IN GENERAL.—From amounts made available to carry out this section, the Attorney General, acting through the Director of the Bureau of Justice Assistance of the Office of Justice Programs, shall establish and carry out a program, to be known as the Northern Border Prosecution Initiative, to provide funds to reimburse eligible northern border entities for costs incurred by those entities for handling case dispositions of criminal cases that are federally initiated but federally declined-referred.

(2) RELATION WITH SOUTHWESTERN BORDER PROSECUTION INITIATIVE.—The program established in paragraph (1) shall—

(A) be modeled after the Southwestern Border Prosecution Initiative; and

(B) serve as a partner program to that initiative to reimburse local jurisdictions for processing Federal cases.

(b) PROVISION AND ALLOCATION OF FUNDS.—Funds provided under the program established in subsection (a) shall be—

(1) provided in the form of direct reimbursements; and

(2) allocated in a manner consistent with the manner under which funds are allocated under the Southwestern Border Prosecution Initiative.

(c) USE OF FUNDS.—Funds provided to an eligible northern border entity under this section may be used by the entity for any lawful purpose, including:

(1) Prosecution and related costs;

(2) Court costs;

(3) Costs of courtroom technology;

(4) Costs of constructing holding spaces;

(5) Costs of administrative staff;

(6) Costs of defense counsel for indigent defendants; and

(7) Detention costs, including pre-trial and post-trial detention.

(d) DEFINITIONS.—In this section:

(1) CASE DISPOSITION.—The term ''case disposition''—

(A) for purposes of the Northern Border Prosecution Initiative, refers to the time between the arrest of a suspect and the resolution of the criminal charges through a county or State judicial or prosecutorial process; and

(B) does not include incarceration time for sentenced offenders, or time spent by prosecutors on judicial appeals.

(2) ELIGIBLE NORTHERN BORDER ENTITY.—The term ''eligible northern border entity'' means—

(A) the States of Alaska, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Vermont, Washington, and Wisconsin; or

(B) any unit of local government within a State referred to in subparagraph (A).

(3) FEDERALLY DECLINED-REFERRED.—The term ''federally declined-referred''—

(A) means, with respect to a criminal case, that a decision has been made in that case by a United States Attorney or a Federal law enforcement agency during a Federal investigation to no longer pursue Federal criminal charges against a defendant and to refer such investigation to a State or local jurisdiction for possible prosecution; and

(B) includes a decision made on an individualized case-by-case basis as well as a decision made pursuant to a general policy or practice or pursuant to prosecutorial discretion.

(4) FEDERALLY INITIATED.—The term ''federally initiated'' means, with respect to a criminal case, that the case results from a criminal investigation or an arrest involving Federal law enforcement authorities for a potential violation of Federal criminal law, including investigations resulting from multi-jurisdictional task forces.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $28,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years thereafter.

SEC. 757. SOUTHWEST BORDER PROSECUTION INITIATIVE.

(a) REIMBURSEMENT TO STATE AND LOCAL PROSECUTORS FOR PROSECUTING FEDERALLY INITIATED DRUG CASES.—The Attorney General shall, subject to the availability of appropriations, reimburse Southern Border State and county prosecutors for prosecuting federally initiated and referred drug cases.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

SEC. 758. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) SHORT TITLE.—This section may be cited as the ''Initial Entry, Adjustment, and Citizenship Assistance Grant Act of 2006''.

(b) PURPOSE.—The purpose of this section is to establish a grant program within the Bureau of Citizenship and Immigration Services that provides funding to community-based organizations, including community-based legal service organizations, as appropriate, to develop and implement programs to assist eligible applicants for the conditional nonimmigrant worker program established under this Act by providing them with the services described in subsection (d)(2).

(c) DEFINITIONS.—In this section:

(1) COMMUNITY-BASED ORGANIZATION.—The term ''community-based organization'' means a nonprofit, tax-exempt organization, including a faith-based organization, whose staff has experience and expertise in meeting the legal, social, educational, cultural educational, or cultural needs of immigrants, refugees, persons granted asylum, or persons applying for such statuses.

(2) IEACA GRANT.—The term ''IEACA grant'' means an Initial Entry, Adjustment, and Citizenship Assistance Grant authorized under subsection (d).

(d) ESTABLISHMENT OF INITIAL ENTRY, ADJUSTMENT, AND CITIZENSHIP ASSISTANCE GRANT PROGRAM.—

(1) GRANTS AUTHORIZED.—The Secretary, working through the Director of the Bureau of Citizenship and Immigration Services, may award IEACA grants to community-based organizations.

(2) USE OF FUNDS.—Grants awarded under this section may be used for the design and implementation of programs to provide the following services:

(A) INITIAL APPLICATION.—Assistance and instruction, including legal assistance, to aliens making initial application for treatment under the program established by section 218D of the Immigration and Nationality Act, as added by section 601. Such assistance may include assisting applicants in—

(i) screening to assess prospective applicants' potential eligibility or lack of eligibility;

(ii) filling out applications;

(iii) gathering proof of identification, employment, residence, and tax payment;

(iv) gathering proof of relationships of eligible family members;

(v) applying for any waivers for which applicants and qualifying family members may be eligible; and

(vi) any other assistance that the Secretary or grantee considers useful to aliens who are interested in filing applications for treatment under such section 218D.

(B) ADJUSTMENT OF STATUS.—Assistance and instruction, including legal assistance, to aliens seeking to adjust their status in accordance with section 245 or 245B of the Immigration and Nationality Act.

(C) CITIZENSHIP.—Assistance and instruction to applicants on—

(i) the rights and responsibilities of United States Citizenship;

(ii) English as a second language;

(iii) civics; or
(iv) applying for United States citizenship.
(3) DURATION AND RENEWAL.—
(A) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 3 years.
(B) RENEWAL.—The Secretary may renew any grant awarded under this section in 1-year increments.
(4) APPLICATION FOR GRANTS.—Each entity desiring an IEACA grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.
(5) ELIGIBLE ORGANIZATIONS.—A community-based organization applying for a grant under this section to provide services described in subparagraph (A), (B), or (C)(iv) of paragraph (2) may not receive such a grant unless the organization is—
(A) recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or
(B) otherwise directed by an attorney.
(6) SELECTION OF GRANTEES.—Grants awarded under this section shall be awarded on a competitive basis.
(7) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Secretary shall approve applications under this section in a manner that ensures, to greatest extent practicable, that—
(A) not less than 50 percent of the funding for grants under this section are awarded to programs located in the 10 States with the highest percentage of foreign-born residents; and
(B) not less than 20 percent of the funding for grants under this section are awarded to programs located in States that are not described in subparagraph (A).
(8) ETHNIC DIVERSITY.—The Secretary shall ensure that community-based organizations receiving grants under this section provide services to an ethnically diverse population, to the greatest extent possible.
(e) LIAISON BETWEEN USCIS AND GRANTEES.—The Secretary shall establish a liaison between the Bureau of Citizenship and Immigration Services and the community of providers of services under this section to assure quality control, efficiency, and greater client willingness to come forward.
(f) REPORTS TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, and each subsequent July 1, the Secretary shall submit a report to Congress that includes information regarding—
(1) the status of the implementation of this section;
(2) the grants issued pursuant to this section; and
(3) the results of those grants.
(g) SOURCE OF GRANT FUNDS.—
(1) APPLICATION FEES.—The Secretary may use funds made available under sections 218A(l)(2) and 218D(f)(4)(B) of the Immigration and Nationality Act, as added by this Act, to carry out this section.
(2) AUTHORIZATION OF APPROPRIATIONS.—
(A) AMOUNTS AUTHORIZED.—In addition to the amounts made available under paragraph (1), there are authorized to be appropriated such additional sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this section.
(B) AVAILABILITY.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.
(h) DISTRIBUTION OF FEES AND FINES.—
(1) H–2C VISA FEES.—Notwithstanding section 218A(l) of the Immigration and Nationality Act, as added by section 403, 2 percent of the fees collected under section 218A of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.
(2) CONDITIONAL NONIMMIGRANT VISA FEES AND FINES.—Notwithstanding section 218D(f)(4) of the Immigration and Nationality Act, as added by section 601, 2 percent of the fees and fines collected under section 218D of such Act shall be made available for grants under the Initial Entry, Adjustment, and Citizenship Assistance Grant Program established under this section.

SEC. 759. SCREENING OF MUNICIPAL SOLID WASTE.

(a) DEFINITIONS.—In this section:
(1) BUREAU.—The term '' Bureau'' means the Bureau of Customs and Border Protection.
(2) COMMERCIAL MOTOR VEHICLE.—The term ''commercial motor vehicle'' has the meaning given the term in section 31101 of title 49, United States Code.
(3) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau.
(4) MUNICIPAL SOLID WASTE.—The term ''municipal solid waste'' includes sludge (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).
(b) REPORTS TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Commissioner shall submit to Congress a report that—
(1) indicates whether the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering the United States through commercial motor vehicle transport; and
(2) if the report indicates that the methodologies and technologies used to screen municipal solid waste are less effective than those used to screen other items of commerce, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of municipal solid waste, including actions necessary to meet the need for additional screening technologies.
(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Commissioner fails to fully implement an action identified under subsection (b)(2) before the earlier of the date that is 180 days after the date on which the report under subsection (b) is required to be submitted or the date that is 180 days after the date on which the report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle carrying municipal solid waste until the Secretary certifies to Congress that the methodologies and technologies used by the Bureau to screen for and detect the presence of chemical, nuclear, biological, and radiological weapons in municipal solid waste are as effective as the methodologies and technologies used by the Bureau to screen for those materials in other items of commerce entering into the United States through commercial motor vehicle transport.

SEC. 760. ACCESS TO IMMIGRATION SERVICES IN AREAS THAT ARE NOT ACCESSIBLE BY ROAD.

Notwithstanding any other provision of law, the Secretary shall permit an employee of Customs and Border Protection or Immigration and Customs Enforcement who carries out the functions of Customs and Border Protection or Immigration and Customs Enforcement in a geographic area that is not accessible by road to carry out any function that was performed by an employee of the Immigration and Naturalization Service in such area prior to the date of the enactment of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

SEC. 761. BORDER SECURITY ON CERTAIN FEDERAL LAND.

(a) DEFINITIONS.—In this section:
(1) PROTECTED LAND.—The term ''protected land'' means land under the jurisdiction of the Secretary concerned.
(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—
(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and
(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.
(b) SUPPORT FOR BORDER SECURITY NEEDS.—
(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—
(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;
(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and
(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.
(2) COORDINATION.—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the United States Fish and Wildlife Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.
(c) INVENTORY OF COSTS AND ACTIVITIES.—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.
(d) RECOMMENDATIONS.—The Secretary shall—
(1) develop joint recommendations with the National Park Service, the United States Fish and Wildlife Service, and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and
(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).
(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—
(1) units of the National Park System;
(2) National Forest System land;
(3) land under the jurisdiction of the United States Fish and Wildlife Service; and
(4) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

SEC. 762. UNMANNED AERIAL VEHICLES.

(a) UNMANNED AERIAL VEHICLES AND ASSOCIATED INFRASTRUCTURE.—The Secretary shall acquire and maintain MQ–9 unmanned aerial vehicles for use on the border, including related equipment such as—

(1) additional sensors;

(2) critical spares;

(3) satellite command and control; and

(4) other necessary equipment for operational support.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out subsection (a)—

(A) $178,400,000 for fiscal year 2007; and

(B) $276,000,000 for fiscal year 2008.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 763. RELIEF FOR WIDOWS AND ORPHANS.

(a) IN GENERAL.—

(1) IN GENERAL.—In applying clause (iii) of section 201(b)(2)(A) of the Immigration and Nationality Act, as added by section 504(a), to an alien whose citizen relative died before the date of the enactment of this Act, the alien relative may (notwithstanding the deadlines specified in such clause) file the classification petition under section 204(a)(1)(A)(ii) of such Act not later than 2 years after the date of the enactment of this Act.

(2) ELIGIBILITY FOR PAROLE.—If an alien was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act based solely upon the alien's lack of classification as an immediate relative (as defined by 201(b)(2)(A)(ii) of the Immigration and Nationality Act) due to the citizen's death—

(A) such alien shall be eligible for parole into the United States pursuant to the Attorney General's discretionary authority under section 212(d)(5) of such Act; and

(B) such alien's application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act.

(b) ADJUSTMENT OF STATUS.—Section 245 (8 U.S.C. 1255), as amended by section 408(h) of this Act, is further amended by adding at the end the following:

''(o) APPLICATION FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, PARENTS, AND CHILDREN.—

''(1) IN GENERAL.—Any alien described in paragraph (2) who applies for adjustment of status before the death of the qualifying relative, may have such application adjudicated as if such death had not occurred.

''(2) ALIEN DESCRIBED.—An alien is described in this paragraph is an alien who—

''(A) is an immediate relative (as described in section 201(b)(2)(A));

''(B) is a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

''(C) is a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d)); or

''(D) is a derivative beneficiary of a diversity immigrant (as described in section 203(c)).''.

(c) TRANSITION PERIOD.—

(1) IN GENERAL.—Notwithstanding a denial of an application for adjustment of status for an alien whose qualifying relative died before the date of the enactment of this Act, such application may be renewed by the alien through a motion to reopen, without fee, if such motion is filed not later than 2 years after such date of enactment.

(2) ELIGIBILITY FOR PAROLE.—If an alien was excluded, deported, removed or departed voluntarily before the date of the enactment of this Act—

(A) such alien shall be eligible for parole into the United States pursuant to the Attorney General's discretionary authority under section 212(d)(5) of the Immigration and Nationality Act; and

(B) such alien's application for adjustment of status shall be considered notwithstanding section 212(a)(9) of such Act.

(d) PROCESSING OF IMMIGRANT VISAS.—Section 204(b) (8 U.S.C. 1154), as amended by section 204(b) of this Act, is further amended—

(1) by striking ''After an investigation'' and inserting the following:

''(1) IN GENERAL.—After an investigation''; and

(2) by adding at the end the following:

''(2) DEATH OF QUALIFYING RELATIVE.—

''(A) IN GENERAL.—Any alien described in paragraph (2) whose qualifying relative died before the completion of immigrant visa processing may have an immigrant visa application adjudicated as if such death had not occurred. An immigrant visa issued before the death of the qualifying relative shall remain valid after such death.

''(B) ALIEN DESCRIBED.—An alien is described in this paragraph is an alien who—

''(i) is an immediate relative (as described in section 201(b)(2)(A));

''(ii) is a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

''(iii) is a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d)); or

''(iv) is a derivative beneficiary of a diversity immigrant (as described in section 203(c)).''.

(e) NATURALIZATION.—Section 319(a) (8 U.S.C. 1429(a)) is amended by inserting ''(or, if the spouse is deceased, the spouse was a citizen of the United States)'' after ''citizen of the United States''.

SEC. 764. TERRORIST ACTIVITIES.

Section 212(a)(3)(B)(i) (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (III), by striking '', under circumstances indicating an intention to cause death or serious bodily harm, incited'' and inserting ''incited or advocated''; and

(2) in subclause (VII), by striking ''or espouses terrorist activity or persuades others to endorse or espouse'' and inserting ''espouses, or advocates terrorist activity or persuades others to endorse, espouse, or advocate''.

SEC. 765. FAMILY UNITY.

Section 212(a)(9) (8 U.S.C. 1182(a)(9)), as amended by section 212(a) of this Act, is further amended—

(1) in subparagraph (C)(ii), by striking ''between—'' and all that follows and inserting the following: ''between—

''(I) the alien having been battered or subjected to extreme cruelty; and

''(II) the alien's removal, departure from the United States, reentry or reentries into the United States, or attempted reentry into the United States.''; and

(2) by adding at the end the following:

''(D) WAIVER.—

''(i) IN GENERAL.—The Secretary may waive the application of subparagraphs (B) and (C) for an alien who is a beneficiary of a petition filed under section 201 or 203 if such petition was filed not later than the date of the enactment of the Comprehensive Immigration Reform Act of 2006.

''(ii) FINE.—An alien who is granted a waiver under clause (i) shall pay a $2,000 fine.''.

SEC. 766. TRAVEL DOCUMENT PLAN.

Section 7209 (b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (8 U.S.C. 1185 note) is amended by striking ''January 1, 2008'' and inserting ''June 1, 2009''.

SEC. 767. ENGLISH AS NATIONAL LANGUAGE.

(a) IN GENERAL.—Title 4, United States Code, is amended by adding at the end the following:

''CHAPTER 6—LANGUAGE OF THE GOVERNMENT

''§ 161. Declaration of national language

''English is the national language of the United States.

''§ 162. Preserving and enhancing the role of the national language

''The Government of the United States shall preserve and enhance the role of English as the national language of the United States of America. Unless otherwise authorized or provided by law, no person has a right, entitlement, or claim to have the Government of the United States or any of its officials or representatives act, communicate, perform or provide services, or provide materials in any language other than English. If exceptions are made, that does not create a legal entitlement to additional services in that language or any language other than English. If any forms are issued by the Federal Government in a language other than English (or such forms are completed in a language other than English), the English language version of the form is the sole authority for all legal purposes.''.

(b) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end the following:

''**6. Language of the Government** ..... **161**''.

SEC. 768. REQUIREMENTS FOR NATURALIZATION.

(a) FINDINGS.—The Senate makes the following findings:

(1) Under United States law (8 U.S.C. 1423(a)), lawful permanent residents of the United States who have immigrated from foreign countries must, among other requirements, demonstrate an understanding of the English language, United States history and Government, to become citizens of the United States.

(2) The Department of Homeland Security is currently conducting a review of the testing process used to ensure prospective United States citizens demonstrate said knowledge of the English language and United States history and Government for the purpose of redesigning said test.

(b) DEFINITIONS.—For purposes of this section only, the following words are defined:

(1) KEY DOCUMENTS.—The term ''key documents'' means the documents that established or explained the foundational principles of democracy in the United States, including the United States Constitution and the amendments to the Constitution (particularly the Bill of Rights), the Declaration of Independence, the Federalist Papers, and the Emancipation Proclamation.

(2) KEY EVENTS.—The term ''key events'' means the critical turning points in the history of the United States (including the American Revolution, the Civil War, the world wars of the twentieth century, the civil rights movement, and the major court decisions and legislation) that contributed to extending the promise of democracy in American life.

(3) KEY IDEAS.—The term ''key ideas'' means the ideas that shaped the democratic institutions and heritage of the United States, including the notion of equal justice under the law, freedom, individualism, human rights, and a belief in progress.

(4) KEY PERSONS.—The term ''key persons'' means the men and women who led the United States as founding fathers, elected officials, scientists, inventors, pioneers, advocates of equal rights, entrepreneurs, and artists.

(c) GOALS FOR CITIZENSHIP TEST REDESIGN.—The Department of Homeland Security shall establish as goals of the testing

process designed to comply with provisions of (8 U.S.C. 1423(a)) that prospective citizens—

(1) demonstrate a sufficient understanding of the English language for usage in everyday life;

(2) demonstrate an understanding of American common values and traditions, including the principles of the Constitution of the United States, the Pledge of Allegiance, respect for the flag of the United States, the National Anthem, and voting in public elections;

(3) demonstrate an understanding of the history of the United States, including the key events, key persons, key ideas, and key documents that shaped the institutions and democratic heritage of the United States;

(4) demonstrate an attachment to the principles of the Constitution of the United States and the well being and happiness of the people of the United States; and

(5) demonstrate an understanding of the rights and responsibilities of citizenship in the United States.

(d) IMPLEMENTATION.—The Secretary of Homeland Security shall implement changes to the testing process designed to ensure compliance with (8 U.S.C. 1423 (a)) not later than January 1, 2008.

SEC. 769. DECLARATION OF ENGLISH.

English is the common and unifying language of the United States that helps provide unity for the people of the United States.

SEC. 770. PRESERVING AND ENHANCING THE ROLE OF THE ENGLISH LANGUAGE.

The Government of the United States shall preserve and enhance the role of English as the common and unifying language of America. Nothing herein shall diminish or expand any existing rights under the law of the United States relative to services or materials provided by the Government of the United States in any language other than English.

For the purposes of this section, law is defined as including provisions of the United States Code and the United States Constitution, controlling judicial decisions, regulations, and controlling Presidential Executive Orders.

(a) CONFORMING AMENDMENT.—The table of chapters for title 4, United States Code, is amended by adding at the end Language of Government of the United States.

SEC. 771. EXCLUSION OF ILLEGAL ALIENS FROM CONGRESSIONAL APPORTIONMENT TABULATIONS.

In addition to any report under this Act the Director of the Bureau of the Census shall submit to Congress a report on the impact of illegal immigration on the apportionment of Representatives of Congress among the several States, and any methods and procedures that the Director determines to be feasible and appropriate, to ensure that individuals who are found by an authorized Federal agency to be unlawfully present in the United States are not counted in tabulating population for purposes of apportionment of Representatives in Congress among the several States.

SEC. 772. OFFICE OF INTERNAL CORRUPTION INVESTIGATION.

(a) INTERNAL CORRUPTION; BENEFITS FRAUD.—Section 453 of the Homeland Security Act of 2002 (6 U.S.C. 273) is amended—

(1) by striking ''the Bureau of'' each place it appears and inserting ''United States'';

(2) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

''(1) establishing the Office of Internal Corruption Investigation, which shall—

''(A) receive, process, administer, and investigate criminal and noncriminal allegations of misconduct, corruption, and fraud involving any employee or contract worker of United States Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

''(B) ensure that all complaints alleging any violation described in subparagraph (A) are handled and stored in a manner appropriate to their sensitivity;

''(C) have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material available to United States Citizenship and Immigration Services, which relate to programs and operations for which the Director is responsible under this Act;

''(D) request such information or assistance from any Federal, State, or local government agency as may be necessary for carrying out the duties and responsibilities under this section;

''(E) require the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary to carry out the functions under this section—

''(i) by subpoena, which shall be enforceable, in the case of contumacy or refusal to obey, by order of any appropriate United States district court; or

''(ii) through procedures other than subpoenas if obtaining documents or information from Federal agencies;

''(F) administer to, or take from, any person an oath, affirmation, or affidavit, as necessary to carry out the functions under this section, which oath, affirmation, or affidavit, if administered or taken by or before an agent of the Office of Internal Corruption Investigation shall have the same force and effect as if administered or taken by or before an officer having a seal;

''(G) investigate criminal allegations and noncriminal misconduct;

''(H) acquire adequate office space, equipment, and supplies as necessary to carry out the functions and responsibilities under this section; and

''(I) be under the direct supervision of the Director.'';

(B) in paragraph (2), by striking ''and'' at the end;

(C) in paragraph (3), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(4) establishing the Office of Immigration Benefits Fraud Investigation, which shall—

''(A) conduct administrative investigations, including site visits, to address immigration benefit fraud;

''(B) assist United States Citizenship and Immigration Services provide the right benefit to the right person at the right time;

''(C) track, measure, assess, conduct pattern analysis, and report fraud-related data to the Director; and

''(D) work with counterparts in other Federal agencies on matters of mutual interest or information-sharing relating to immigration benefit fraud.''; and

(3) by adding at the end the following:

''(c) ANNUAL REPORT.—The Director, in consultation with the Office of Internal Corruption Investigations, shall submit an annual report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes—

''(1) the activities of the Office, including the number of investigations began, completed, pending, turned over to the Inspector General for criminal investigations, and turned over to a United States Attorney for prosecution; and

''(2) the types of allegations investigated by the Office during the 12-month period immediately preceding the submission of the report that relate to the misconduct, corruption, and fraud described in subsection (a)(1).''.

(b) USE OF IMMIGRATION FEES TO COMBAT FRAUD.—Section 286(v)(2)(B) (8 U.S.C. 1356(v)(2)(B)) is amended by adding at the end the following: ''Not less than 20 percent of the funds made available under this subparagraph shall be used for activities and functions described in paragraphs (1) and (4) of section 453(a) of the Homeland Security Act of 2002 (6 U.S.C. 273(a)).''.

SEC. 773. ADJUSTMENT OF STATUS FOR CERTAIN PERSECUTED RELIGIOUS MINORITIES.

(a) IN GENERAL.—The Secretary shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

(1) is a persecuted religious minority;

(2) is admissible to the United States as an immigrant, except as provided under subsection (b);

(3) had an application for asylum pending on May 1, 2003;

(4) applies for such adjustment of status;

(5) was physically present in the United States on the date the application for such adjustment is filed; and

(6) pays a fee, in an amount determined by the Secretary, for the processing of such application.

(b) WAIVER OF CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) INAPPLICABLE PROVISION.—Section 212(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(7)) shall not apply to any adjustment of status under this section.

(2) WAIVER.—The Secretary may waive any other provision of section 212(a) of such Act (except for paragraphs (2) and (3)) if extraordinary and compelling circumstances warrant such an adjustment for humanitarian purposes, to ensure family unity, or if it is otherwise in the public interest.

SEC. 774. ELIGIBILITY OF AGRICULTURAL AND FORESTRY WORKERS FOR CERTAIN LEGAL ASSISTANCE.

Section 305 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1101 note; Public Law 99–603) is amended—

(1) by striking ''section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a))'' and inserting ''item (a) or (b) of section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii))''; and

(2) by inserting ''or forestry'' after ''agricultural''.

SEC. 775. DESIGNATION OF PROGRAM COUNTRIES.

Section 217(c)(1) (8 U.S.C. 1187(c)(1)) is amended to read as follows:

''(1) IN GENERAL.—As soon as any country fully meets the requirements under paragraph (2), the Secretary of Homeland Security, in consultation with the Secretary of State, shall designate such country as a program country.''.

SEC. 776. 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. 777. ATTESTATION BY HEALTHCARE WORKERS.

(a) REQUIREMENT FOR ATTESTATION.—Section 212(a)(5) (8 U.S.C. 1182(a)(5)) is amended by adding at the end the following new subparagraph:

''(E) HEALTHCARE WORKERS WITH OTHER OBLIGATIONS.—

''(i) IN GENERAL.—An alien who seeks to enter the United States for the purpose of performing labor as a physician or other healthcare worker is inadmissible unless the alien submits to the Secretary of Homeland Security or the Secretary of State, as appropriate, an attestation that the alien is not seeking to enter the United States for such purpose during any period in which the alien has an outstanding obligation to the government of the alien's country of origin or the alien's country of residence.

''(ii) OBLIGATION DEFINED.—In this subparagraph, the term 'obligation' means an obligation incurred as part of a valid, voluntary individual agreement in which the alien received financial assistance to defray the costs of education or training to qualify as a physician or other healthcare worker in consideration for a commitment to work as a physician or other healthcare worker in the alien's country of origin or the alien's country of residence.

''(iii) WAIVER.—The Secretary of Homeland Security may waive a finding of inadmissibility under clause (i) if the Secretary determines that—

''(I) the obligation was incurred by coercion or other improper means;

''(II) the alien and the government of the country to which the alien has an outstanding obligation have reached a valid, voluntary agreement, pursuant to which the alien's obligation has been deemed satisfied, or the alien has shown to the satisfaction of the Secretary that the alien has been unable to reach such an agreement because of coercion or other improper means; or

''(III) the obligation should not be enforced due to other extraordinary circumstances, including undue hardship that would be suffered by the alien in the absence of a waiver.''.

(b) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective 180 days after the date of the enactment of this Act.

(2) APPLICATION BY THE SECRETARY.—The Secretary shall begin to carry out the subparagraph (E) of section 212(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)), as added by subsection (a), not later than the effective date described in paragraph (1), including the requirement for the attestation and the granting of a waiver described in such subparagraph, regardless of whether regulations to implement such subparagraph have been promulgated.

SEC. 778. 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.

SEC. 779. NATIONAL SECURITY DETERMINATION.

Notwithstanding any other provision of this Act, the President shall ensure that no provision of title IV or title VI of this Act, or any amendment made by either such title, is carried out until after the date on which the President makes a determination that the implementation of such title IV and title VI, and the amendments made by either such title, will strengthen the national security of the United States.

TITLE VIII—INTERCOUNTRY ADOPTION REFORM

SEC. 801. SHORT TITLE.

This title may be cited as the ''Intercountry Adoption Reform Act of 2006'' or the ''ICARE Act''.

SEC. 802. FINDINGS; PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) That a child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love, and understanding.

(2) That intercountry adoption may offer the advantage of a permanent family to a child for whom a suitable family cannot be found in his or her country of origin.

(3) There has been a significant growth in intercountry adoptions. In 1990, Americans adopted 7,093 children from abroad. In 2004, they adopted 23,460 children from abroad.

(4) Americans increasingly seek to create or enlarge their families through intercountry adoptions.

(5) There are many children worldwide that are without permanent homes.

(6) In the interest of children without a permanent family and the United States citizens who are waiting to bring them into their families, reforms are needed in the intercountry adoption process used by United States citizens.

(7) Before adoption, each child should have the benefit of measures taken to ensure that intercountry adoption is in his or her best interest and that prevents the abduction, selling, or trafficking of children.

(8) In addition, Congress recognizes that foreign-born adopted children do not make the decision whether to immigrate to the United States. They are being chosen by Americans to become part of their immediate families.

(9) As such these children should not be classified as immigrants in the traditional sense. Once fully and finally adopted, they should be treated as children of United States citizens.

(10) Since a child who is fully and finally adopted is entitled to the same rights, duties, and responsibilities as a biological child, the law should reflect such equality.

(11) Therefore, foreign-born adopted children of United States citizens should be accorded the same procedural treatment as biological children born abroad to a United States citizen.

(12) If a United States citizen can confer citizenship to a biological child born abroad, then the same citizen is entitled to confer such citizenship to their legally and fully adopted foreign-born child immediately upon final adoption.

(13) If a United States citizen cannot confer citizenship to a biological child born abroad, then such citizen cannot confer citizenship to their legally and fully adopted foreign-born child, except through the naturalization process.

(b) PURPOSES.—The purposes of this title are—

(1) to ensure the any adoption of a foreign-born child by parents in the United States is carried out in the manner that is in the best interest of the child;

(2) to ensure that foreign-born children adopted by United States citizens will be treated identically to a biological child born abroad to the same citizen parent; and

(3) to improve the intercountry adoption process to make it more citizen friendly and focused on the protection of the child.

SEC. 803. DEFINITIONS.

In this title:

(1) ADOPTABLE CHILD.—The term ''adoptable child'' has the same meaning given such term in section 101(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(c)(3)), as added by section 824(a) of this Act.

(2) AMBASSADOR AT LARGE.—The term ''Ambassador at Large'' means the Ambassador at Large for Intercountry Adoptions appointed to head the Office pursuant to section 811(b).

(3) COMPETENT AUTHORITY.—The term ''competent authority'' means the entity or entities authorized by the law of the child's country of residence to engage in permanent placement of children who are no longer in the legal or physical custody of their biological parents.

(4) CONVENTION.—The term ''Convention'' means the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on May 29, 1993.

(5) FULL AND FINAL ADOPTION.—The term ''full and final adoption'' means an adoption—

(A) that is completed according to the laws of the child's country of residence or the State law of the parent's residence;

(B) under which a person is granted full and legal custody of the adopted child;

(C) that has the force and effect of severing the child's legal ties to the child's biological parents;

(D) under which the adoptive parents meet the requirements of section 825; and

(E) under which the child has been adjudicated to be an adoptable child in accordance with section 826.

(6) OFFICE.—The term ''Office'' means the Office of Intercountry Adoptions established under section 811(a).

(7) READILY APPROVABLE.—A petition or certification is ''readily approvable'' if the documentary support provided along with such petition or certification demonstrates that the petitioner satisfies the eligibility requirements and no additional information or investigation is necessary.

Subtitle A—Administration of Intercountry Adoptions

SEC. 811. OFFICE OF INTERCOUNTRY ADOPTIONS.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, there shall be established within the Department of State, an Office of Intercountry Adoptions which shall be headed by the Ambassador at Large for Intercountry Adoptions.

(b) AMBASSADOR AT LARGE.—

(1) APPOINTMENT.—The Ambassador at Large shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who have background, experience, and training in intercountry adoptions.

(2) CONFLICTS OF INTEREST.—The individual appointed to be the Ambassador at Large shall be free from any conflict of interest that could impede such individual's ability to serve as the Ambassador.

(3) AUTHORITY.—The Ambassador at Large shall report directly to the Secretary of State, in consultation with the Assistant Secretary for Consular Affairs.

(4) REGULATIONS.—The Ambassador at Large may not issue rules or regulations unless such rules or regulations have been approved by the Secretary of State.

(5) DUTIES OF THE AMBASSADOR AT LARGE.—The Ambassador at Large shall have the following responsibilities:

(A) IN GENERAL.—The primary responsibilities of the Ambassador at Large shall be—

(i) to ensure that any adoption of a foreign-born child by parents in the United States is carried out in the manner that is in the best interest of the child; and

(ii) to assist the Secretary of State in fulfilling the responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.).

(B) ADVISORY ROLE.—The Ambassador at Large shall be a principal advisor to the President and the Secretary of State regarding matters affecting intercountry adoption and the general welfare of children abroad and shall make recommendations regarding—

(i) the policies of the United States with respect to the establishment of a system of cooperation among the parties to the Convention;

(ii) the policies to prevent abandonment, to strengthen families, and to advance the placement of children in permanent families; and

(iii) policies that promote the protection and well-being of children.

(C) DIPLOMATIC REPRESENTATION.—Subject to the direction of the President and the Secretary of State, the Ambassador at Large may represent the United States in matters and cases relevant to international adoption in—

(i) fulfillment of the responsibilities designated to the central authority under title I of the Intercountry Adoption Act of 2000 (42 U.S.C. 14911 et seq.);

(ii) contacts with foreign governments, intergovernmental organizations, and specialized agencies of the United Nations and other international organizations of which the United States is a member; and

(iii) multilateral conferences and meetings relevant to international adoption.

(D) INTERNATIONAL POLICY DEVELOPMENT.—The Ambassador at Large shall advise and support the Secretary of State and other relevant Bureaus of the Department of State in the development of sound policy regarding child protection and intercountry adoption.

(E) REPORTING RESPONSIBILITIES.—The Ambassador at Large shall have the following reporting responsibilities:

(i) IN GENERAL.—The Ambassador at Large shall assist the Secretary of State and other relevant Bureaus in preparing those portions of the Human Rights Reports that relate to the abduction, sale, and trafficking of children.

(ii) ANNUAL REPORT ON INTERCOUNTRY ADOPTION.—Not later than September 1 of each year, the Secretary of State shall prepare and submit to Congress an annual report on intercountry adoption. Each annual report shall include—

(I) a description of the status of child protection and adoption in each foreign country, including—

(aa) trends toward improvement in the welfare and protection of children and families;

(bb) trends in family reunification, domestic adoption, and intercountry adoption;

(cc) movement toward ratification and implementation of the Convention; and

(dd) census information on the number of children in orphanages, foster homes, and other types of nonpermanent residential care as reported by the foreign country;

(II) the number of intercountry adoptions by United States citizens, including the country from which each child emigrated, the State in which each child resides, and the country in which the adoption was finalized;

(III) the number of intercountry adoptions involving emigration from the United States, including the country where each child now resides and the State from which each child emigrated;

(IV) the number of placements for adoption in the United States that were disrupted, including the country from which the child emigrated, the age of the child, the date of the placement for adoption, the reasons for the disruption, the resolution of the disruption, the agencies that handled the placement for adoption, and the plans for the child, and in addition, any information regarding disruption or dissolution of adoptions of children from other countries received pursuant to section 422(b)(14) of the Social Security Act (42 U.S.C. 622(b)(14));

(V) the average time required for completion of an adoption, set forth by the country from which the child emigrated;

(VI) the current list of agencies accredited and persons approved under the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.) to provide adoption services;

(VII) the names of the agencies and persons temporarily or permanently debarred under the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 et seq.), and the reasons for the debarment;

(VIII) the range of adoption fees involving adoptions by United States citizens and the median of such fees set forth by the country of origin;

(IX) the range of fees charged for accreditation of agencies and the approval of persons in the United States engaged in providing adoption services under the Convention; and

(X) recommendations of ways the United States might act to improve the welfare and protection of children and families in each foreign country.

(c) FUNCTIONS OF OFFICE.—The Office shall have the following 7 functions:

(1) APPROVAL OF A FAMILY TO ADOPT.—To approve or disapprove the eligibility of a United States citizen to adopt a child born in a foreign country.

(2) CHILD ADJUDICATION.—To investigate and adjudicate the status of a child born in a foreign country to determine whether that child is an adoptable child.

(3) FAMILY SERVICES.—To provide assistance to United States citizens engaged in the intercountry adoption process in resolving problems with respect to that process and to track intercountry adoption cases so as to ensure that all such adoptions are processed in a timely manner.

(4) INTERNATIONAL POLICY DEVELOPMENT.—To advise and support the Ambassador at

Large and other relevant Bureaus of the Department of State in the development of sound policy regarding child protection and intercountry adoption.

(5) CENTRAL AUTHORITY.—To assist the Secretary of State in carrying out duties of the central authority as defined in section 3 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14902).

(6) ENFORCEMENT.—To investigate, either directly or in cooperation with other appropriate international, Federal, State, or local entities, improprieties relating to intercountry adoption, including issues of child protection, birth family protection, and consumer fraud.

(7) ADMINISTRATION.—To perform administrative functions related to the functions performed under paragraphs (1) through (6), including legal functions and congressional liaison and public affairs functions.

(d) ORGANIZATION.—

(1) IN GENERAL.—All functions of the Office shall be performed by officers employed in a central office located in Washington, D.C. Within that office, there shall be 7 divisions corresponding to the 7 functions of the Office. The director of each such division shall report directly to the Ambassador at Large.

(2) APPROVAL TO ADOPT.—The division responsible for approving parents to adopt shall be divided into regions of the United States as follows:

(A) Northwest.
(B) Northeast.
(C) Southwest.
(D) Southeast.
(E) Midwest.
(F) West.

(3) CHILD ADJUDICATION.—To the extent practicable, the division responsible for the adjudication of foreign-born children as adoptable shall be divided by world regions which correspond to the world regions used by other divisions within the Department of State.

(4) USE OF INTERNATIONAL FIELD OFFICERS.—Nothing in this section shall be construed to prohibit the use of international field officers posted abroad, as necessary, to fulfill the requirements of this Act.

(5) COORDINATION.—The Ambassador at Large shall coordinate with appropriate employees of other agencies and departments of the United States, whenever appropriate, in carrying out the duties of the Ambassador.

(e) QUALIFICATIONS AND TRAINING.—In addition to meeting the employment requirements of the Department of State, officers employed in any of the 7 divisions of the Office shall undergo extensive and specialized training in the laws and processes of intercountry adoption as well as understanding the cultural, medical, emotional, and social issues surrounding intercountry adoption and adoptive families. The Ambassador at Large shall, whenever possible, recruit and hire individuals with background and experience in intercountry adoptions, taking care to ensure that such individuals do not have any conflicts of interest that might inhibit their ability to serve.

(f) USE OF ELECTRONIC DATABASES AND FILING.—To the extent possible, the Office shall make use of centralized, electronic databases and electronic form filing.

SEC. 812. RECOGNITION OF CONVENTION ADOPTIONS IN THE UNITED STATES.

Section 505(a)(1) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14901 note) is amended by inserting ''301, 302,'' after ''205,''.

SEC. 813. TECHNICAL AND CONFORMING AMENDMENT.

Section 104 of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914) is repealed.

SEC. 814. TRANSFER OF FUNCTIONS.

(a) IN GENERAL.—Subject to subsection (c), all functions under the immigration laws of the United States with respect to the adoption of foreign-born children by United States citizens and their admission to the United States that have been vested by statute in, or exercised by, the Secretary of Homeland Security immediately prior to the effective date of this Act, are transferred to the Secretary of State on the effective date of this Act and shall be carried out by the Ambassador at Large, under the supervision of the Secretary of State, in accordance with applicable laws and this Act.

(b) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, the Ambassador at Large may, for purposes of performing any function transferred to the Ambassador at Large under subsection (a), exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function pursuant to this subtitle.

(c) LIMITATION ON TRANSFER OF PENDING ADOPTIONS.—If an individual has filed a petition with the Immigration and Naturalization Service or the Department of Homeland Security with respect to the adoption of a foreign-born child prior to the date of enactment of this Act, the Secretary of Homeland Security shall have the authority to make the final determination on such petition and such petition shall not be transferred to the Office.

SEC. 815. TRANSFER OF RESOURCES.

Subject to section 1531 of title 31, United States Code, upon the effective date of this Act, there are transferred to the Ambassador at Large for appropriate allocation in accordance with this Act, the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to the Department of Homeland Security in connection with the functions transferred pursuant to this subtitle.

SEC. 816. INCIDENTAL TRANSFERS.

The Ambassador at Large may make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out this subtitle. The Ambassador at Large shall provide for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

SEC. 817. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, including collective bargaining agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Ambassador at Large, the former Commissioner of the Immigration and Naturalization Service, or the Secretary of Homeland Security, or their delegates, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred pursuant to this subtitle; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date);

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law, except that any collective bargaining agreement shall remain in effect until the date of termination specified in the agreement.

(b) PROCEEDINGS.—

(1) PENDING.—The transfer of functions under section 814 shall not affect any proceeding or any application for any benefit, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office whose functions are transferred pursuant to this subtitle, but such proceedings and applications shall be continued.

(2) ORDERS.—Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION.—Nothing in this section shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(c) SUITS.—This subtitle shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of State, the Immigration and Naturalization Service, or the Department of Homeland Security, or by or against any individual in the official capacity of such individual as an officer or employee in connection with a function transferred pursuant to this section, shall abate by reason of the enactment of this Act.

(e) CONTINUANCE OF SUIT WITH SUBSTITUTION OF PARTIES.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and pursuant to this subtitle such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this subtitle, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred pursuant to any provision of this subtitle shall apply to the exercise of such function by the head of the office, and other officers of the office, to which such function is transferred pursuant to such provision.

Subtitle B—Reform of United States Laws Governing Intercountry Adoptions

SEC. 821. AUTOMATIC ACQUISITION OF CITIZENSHIP FOR ADOPTED CHILDREN BORN OUTSIDE THE UNITED STATES.

(a) AUTOMATIC CITIZENSHIP PROVISIONS.—

(1) AMENDMENT OF THE INA.—Section 320 of the Immigration and Nationality Act (8 U.S.C. 1431) is amended to read as follows:

''SEC. 320. CONDITIONS FOR AUTOMATIC CITIZENSHIP FOR CHILDREN BORN OUTSIDE THE UNITED STATES.

''(a) IN GENERAL.—A child born outside of the United States automatically becomes a citizen of the United States—

''(1) if the child is not an adopted child—

''(A) at least 1 parent of the child is a citizen of the United States, whether by birth or naturalization, who has been physically present (as determined under subsection (b)) in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least 2 of which were after attaining the age of 14 years; and

''(B) the child is under the age of 18 years; or

''(2) if the child is an adopted child, on the date of the full and final adoption of the child—

''(A) at least 1 parent of the child is a citizen of the United States, whether by birth or naturalization, who has been physically present (as determined under subsection (b)) in the United States or its outlying possessions for a period or periods totaling not less than 5 years, at least 2 of which were after attaining the age of 14 years;

''(B) the child is an adoptable child;

''(C) the child is the beneficiary of a full and final adoption decree entered by a foreign government or a court in the United States; and

''(D) the child is under the age of 16 years.

''(b) PHYSICAL PRESENCE.—For the purposes of subsection (a)(2)(A), the requirement for physical presence in the United States or its outlying possessions may be satisfied by the following:

''(1) Any periods of honorable service in the Armed Forces of the United States.

''(2) Any periods of employment with the United States Government or with an international organization as that term is defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288) by such citizen parent.

''(3) Any periods during which such citizen parent is physically present outside the United States or its outlying possessions as the dependent unmarried son or daughter and a member of the household of a person—

''(A) honorably serving with the Armed Forces of the United States; or

''(B) employed by the United States Government or an international organization as defined in section 1 of the International Organizations Immunities Act (22 U.S.C. 288).

''(c) FULL AND FINAL ADOPTION.—In this section, the term 'full and final adoption' means an adoption—

''(1) that is completed under the laws of the child's country of residence or the State law of the parent's residence;

''(2) under which a person is granted full and legal custody of the adopted child;

''(3) that has the force and effect of severing the child's legal ties to the child's biological parents;

''(4) under which the adoptive parents meet the requirements of section 825 of the Intercountry Adoption Reform Act of 2006; and

''(5) under which the child has been adjudicated to be an adoptable child in accordance with section 826 of the Intercountry Adoption Reform Act of 2006.''.

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Immigration and Nationality Act (66 Stat. 163) is amended by striking the item relating to section 320 and inserting the following:

''Sec. 320. Conditions for automatic citizenship for children born outside the United States''.

(c) EFFECTIVE DATE.—This section shall take effect as if enacted on June 27, 1952.

SEC. 822. REVISED PROCEDURES.

Notwithstanding any other provision of law, the following requirements shall apply with respect to the adoption of foreign born children by United States citizens:

(1) Upon completion of a full and final adoption, the Secretary shall issue a United States passport and a Consular Report of Birth for a child who satisfies the requirements of section 320(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1431(a)(2)), as amended by section 821 of this Act, upon application by a United States citizen parent.

(2) An adopted child described in paragraph (1) shall not require the issuance of a visa for travel and admission to the United States but shall be admitted to the United States upon presentation of a valid, unexpired United States passport.

(3) No affidavit of support under section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) shall be required in the case of any adoptable child.

(4) The Secretary of State, acting through the Ambassador at Large, shall require that agencies provide prospective adoptive parents an opportunity to conduct an independent medical exam and a copy of any medical records of the child known to exist (to the greatest extent practicable, these documents shall include an English translation) on a date that is not later than the earlier of the date that is 2 weeks before the adoption, or the date on which prospective adoptive parents travel to such a foreign country to complete all procedures in such country relating to adoption.

(5) The Secretary of State, acting through the Ambassador at Large, shall take necessary measures to ensure that all prospective adoptive parents adopting internationally are provided with training that includes counseling and guidance for the purpose of promoting a successful intercountry adoption before such parents travel to adopt the child or the child is placed with such parents for adoption.

(6) The Secretary of State, acting through the Ambassador at Large, shall take necessary measures to ensure that—

(A) prospective adoptive parents are given full disclosure of all direct and indirect costs of intercountry adoption before the parents are matched with a child for adoption;

(B) fees charged in relation to the intercountry adoption be on a fee-for-service basis not on a contingent fee basis; and

(C) that the transmission of fees between the adoption agency, the country of origin, and the prospective adoptive parents is carried out in a transparent and efficient manner.

(7) The Secretary of State, acting through the Ambassador at Large, shall take all measures necessary to ensure that all documents provided to a country of origin on behalf of a prospective adoptive parent are truthful and accurate.

SEC. 823. NONIMMIGRANT VISAS FOR CHILDREN TRAVELING TO THE UNITED STATES TO BE ADOPTED BY A UNITED STATES CITIZEN.

(a) NONIMMIGRANT CLASSIFICATION.—

(1) IN GENERAL.—Section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) is amended by adding at the end the following:

''(W) an adoptable child who is coming into the United States for adoption by a United States citizen and a spouse jointly or by an unmarried United States citizen at least 25 years of age, who has been approved to adopt by the Office of International Adoption of the Department of State.''.

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Such section 101(a)(15) is further amended—

(A) by striking ''or'' at the end of subparagraph (U); and

(B) by striking the period at the end of subparagraph (V) and inserting ''; or''.

(b) TERMINATION OF PERIOD OF AUTHORIZED ADMISSION.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

''(s) In the case of a nonimmigrant described in section 101(a)(15)(W), the period of authorized admission shall terminate on the earlier of—

''(1) the date on which the adoption of the nonimmigrant is completed by the courts of the State where the parents reside; or

''(2) the date that is 4 years after the date of admission of the nonimmigrant into the United States, unless a petitioner is able to show cause as to why the adoption could not be completed prior to such date and the Secretary of State extends such period for the period necessary to complete the adoption.''.

(c) TEMPORARY TREATMENT AS LEGAL PERMANENT RESIDENT.—Notwithstanding any other law, all benefits and protections that apply to a legal permanent resident shall apply to a nonimmigrant described in section 101(a)(15)(W) of the Immigration and Nationality Act, as added by subsection (a), pending a full and final adoption.

(d) EXCEPTION FROM IMMUNIZATION REQUIREMENT FOR CERTAIN ADOPTED CHILDREN.—Section 212(a)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(C)) is amended—

(1) in the heading by striking ''10 years'' and inserting ''18 years''; and

(2) in clause (i), by striking ''10 years'' and inserting ''18 years''.

(e) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall prescribe such regulations as may be necessary to carry out this section.

SEC. 824. DEFINITION OF ADOPTABLE CHILD.

(a) IN GENERAL.—Section 101(c) of the Immigration and Nationality Act (8 U.S.C. 1101(c)) is amended by adding at the end the following:

''(3) The term 'adoptable child' means an unmarried person under the age of 18—

''(A)(i) whose biological parents (or parent, in the case of a child who has one sole or surviving parent) or other persons or institutions that retain legal custody of the child—

''(I) have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child's emigration and adoption and that such consent has not been induced by payment or compensation of any kind and has not been given prior to the birth of the child;

''(II) are unable to provide proper care for the child, as determined by the competent authority of the child's residence; or

''(III) have voluntarily relinquished the child to the competent authorities pursuant to the law of the child's residence; or

''(ii) who, as determined by the competent authority of the child's residence—

''(I) has been abandoned or deserted by their biological parent, parents, or legal guardians; or

''(II) has been orphaned due to the death or disappearance of their biological parent, parents, or legal guardians;

''(B) with respect to whom the Secretary of State is satisfied that the proper care will be furnished the child if admitted to the United States;

''(C) with respect to whom the Secretary of State is satisfied that the purpose of the adoption is to form a bona fide parent-child relationship and that the parent-child relationship of the child and the biological parents has been terminated (and in carrying out both obligations under this subparagraph the Secretary of State, in consultation with the Secretary of Homeland Security, may consider whether there is a petition pending to confer immigrant status on one or both of the biological parents);

''(D) with respect to whom the Secretary of State, is satisfied that there has been no inducement, financial or otherwise, offered to

obtain the consent nor was it given before the birth of the child;

''(E) with respect to whom the Secretary of State, in consultation with the Secretary of Homeland Security, is satisfied that the person is not a security risk; and

''(F) whose eligibility for adoption and emigration to the United States has been certified by the competent authority of the country of the child's place of birth or residence.''.

(b) CONFORMING AMENDMENT.—Section 204(d) of the Immigration and Nationality Act (8 U.S.C. 1154(d)) is amended by inserting ''and an adoptable child as defined in section 101(c)(3)'' before ''unless a valid home-study''.

SEC. 825. APPROVAL TO ADOPT.

(a) IN GENERAL.—Prior to the issuance of a visa under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 823(a) of this Act, or the issuance of a full and final adoption decree, the United States citizen adoptive parent shall have approved by the Office a petition to adopt. Such petition shall be subject to the same terms and conditions as are applicable to petitions for classification under section 204.3 of title 8 of the Code of Federal Regulations, as in effect on the day before the date of enactment of this Act.

(b) EXPIRATION OF APPROVAL.—Approval to adopt under this Act is valid for 24 months from the date of approval. Nothing in this section may prevent the Secretary of Homeland Security from periodically updating the fingerprints of an individual who has filed a petition for adoption.

(c) EXPEDITED REAPPROVAL PROCESS OF FAMILIES PREVIOUSLY APPROVED TO ADOPT.—The Secretary of State shall prescribe such regulations as may be necessary to provide for an expedited and streamlined process for families who have been previously approved to adopt and whose approval has expired, so long as not more than 4 years have lapsed since the original application.

(d) DENIAL OF PETITION.—

(1) NOTICE OF INTENT.—If the officer adjudicating the petition to adopt finds that it is not readily approvable, the officer shall notify the petitioner, in writing, of the officer's intent to deny the petition. Such notice shall include the specific reasons why the petition is not readily approvable.

(2) PETITIONER'S RIGHT TO RESPOND.—Upon receiving a notice of intent to deny, the petitioner has 30 days to respond to such notice.

(3) DECISION.—Within 30 days of receipt of the petitioner's response the Office must reach a final decision regarding the eligibility of the petitioner to adopt. Notice of a formal decision must be delivered in writing.

(4) RIGHT TO AN APPEAL.—Unfavorable decisions may be appealed to the Department of State and, after the exhaustion of the appropriate appeals process of the Department, to a United States district court.

(5) REGULATIONS REGARDING APPEALS.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall promulgate formal regulations regarding the process for appealing the denial of a petition.

SEC. 826. ADJUDICATION OF CHILD STATUS.

(a) IN GENERAL.—Prior to the issuance of a full and final adoption decree or a visa under section 101(a)(15)(W) of the Immigration and Nationality Act, as added by section 823(a) of this Act—

(1) the Ambassador at Large shall obtain from the competent authority of the country of the child's residence a certification, together with documentary support, that the child sought to be adopted meets the definition of an adoptable child; and

(2) not later than 15 days after the date of the receipt of the certification referred to in paragraph (1), the Secretary of State shall make a final determination on whether the certification and the documentary support are sufficient to meet the requirements of this section or whether additional investigation or information is required.

(b) PROCESS FOR DETERMINATION.—

(1) IN GENERAL.—The Ambassador at Large shall work with the competent authorities of the child's country of residence to establish a uniform, transparent, and efficient process for the exchange and approval of the certification and documentary support required under subsection (a).

(2) NOTICE OF INTENT.—If the Secretary of State determines that a certification submitted by the competent authority of the child's country of origin is not readily approvable, the Ambassador at Large shall—

(A) notify the competent authority and the prospective adoptive parents, in writing, of the specific reasons why the certification is not sufficient; and

(B) provide the competent authority and the prospective adoptive parents the opportunity to address the stated insufficiencies.

(3) PETITIONERS RIGHT TO RESPOND.—Upon receiving a notice of intent to find that a certification is not readily approvable, the prospective adoptive parents shall have 30 days to respond to such notice.

(4) DECISION.—Not later than 30 days after the date of receipt of a response submitted under paragraph (3), the Secretary of State shall reach a final decision regarding the child's eligibility as an adoptable child. Notice of such decision must be in writing.

(5) RIGHT TO AN APPEAL.—Unfavorable decisions on a certification may be appealed through the appropriate process of the Department of State and, after the exhaustion of such process, to a United States district court.

SEC. 827. FUNDS.

The Secretary of State shall provide the Ambassador at Large with such funds as may be necessary for—

(1) the hiring of staff for the Office;

(2) investigations conducted by such staff; and

(3) travel and other expenses necessary to carry out this title.

Subtitle C—Enforcement

SEC. 831. CIVIL PENALTIES AND ENFORCEMENT.

(a) CIVIL PENALTIES.—A person shall be subject, in addition to any other penalty that may be prescribed by law, to a civil money penalty of not more than $50,000 for a first violation, and not more than $100,000 for each succeeding violation if such person—

(1) violates a provision of this title or an amendment made by this title;

(2) makes a false or fraudulent statement, or misrepresentation, with respect to a material fact, or offers, gives, solicits, or accepts inducement by way of compensation, intended to influence or affect in the United States or a foreign country—

(A) a decision for an approval under title II;

(B) the relinquishment of parental rights or the giving of parental consent relating to the adoption of a child; or

(C) a decision or action of any entity performing a central authority function; or

(3) engages another person as an agent, whether in the United States or in a foreign country, who in the course of that agency takes any of the actions described in paragraph (1) or (2).

(b) CIVIL ENFORCEMENT.—

(1) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General may bring a civil action to enforce subsection (a) against any person in any United States district court.

(2) FACTORS TO BE CONSIDERED IN IMPOSING PENALTIES.—In imposing penalties the court shall consider the gravity of the violation, the degree of culpability of the defendant, and any history of prior violations by the defendant.

SEC. 832. CRIMINAL PENALTIES.

Whoever knowingly and willfully commits a violation described in paragraph (1) or (2) of section 831(a) shall be subject to a fine of not more than $250,000, imprisonment for not more than 5 years, or both.

SA 5029. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

TITLE II—THE DREAM ACT OF 2006

SEC. 201. SHORT TITLE.

This title may be cited as the ''Development, Relief, and Education for Alien Minors Act of 2006'' or the ''DREAM Act of 2006''.

SEC. 202. DEFINITIONS.

In this title:

(1) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(2) UNIFORMED SERVICES.—The term ''uniformed services'' has the meaning given that term in section 101(a) of title 10, United States Code.

SEC. 203. RESTORATION OF STATE OPTION TO DETERMINE RESIDENCY FOR PURPOSES OF HIGHER EDUCATION BENEFITS.

(a) IN GENERAL.—Section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623) is repealed.

(b) EFFECTIVE DATE.—The repeal under subsection (a) shall take effect as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

SEC. 204. CANCELLATION OF REMOVAL AND ADJUSTMENT OF STATUS OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) SPECIAL RULE FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.—

(1) IN GENERAL.—Notwithstanding any other provision of law and except as otherwise provided in this title, the Secretary of Homeland Security may cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, subject to the conditional basis described in section 205, an alien who is inadmissible or deportable from the United States, if the alien demonstrates that—

(A) the alien has been physically present in the United States for a continuous period of not less than 5 years immediately preceding the date of enactment of this Act, and had not yet reached the age of 16 years at the time of initial entry;

(B) the alien has been a person of good moral character since the time of application;

(C) the alien—

(i) is not inadmissible under paragraph (2), (3), (6)(B), (6)(C), (6)(E), (6)(F), or (6)(G) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), or, if inadmissible solely under subparagraph (C) or (F) of paragraph (6) of such subsection, the alien was under the age of 16 years at the time the violation was committed; and

(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (3)(B), (3)(C), (3)(D), (4), or

(6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)), or, if deportable solely under subparagraphs (C) or (D) of paragraph (3) of such subsection, the alien was under the age of 16 years at the time the violation was committed;

(D) the alien, at the time of application, has been admitted to an institution of higher education in the United States, or has earned a high school diploma or obtained a general education development certificate in the United States; and

(E) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien has remained in the United States under color of law or received the order before attaining the age of 16 years.

(2) WAIVER.—The Secretary of Homeland Security may waive the grounds of ineligibility under section 212(a)(6) of the Immigration and Nationality Act and the grounds of deportability under paragraphs (1), (3), and (6) of section 237(a) of that Act for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.

(b) TERMINATION OF CONTINUOUS PERIOD.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under this section shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary of Homeland Security may extend the time periods described in paragraph (1) if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) EXEMPTION FROM NUMERICAL LIMITATIONS.—Nothing in this section may be construed to apply a numerical limitation on the number of aliens who may be eligible for cancellation of removal or adjustment of status under this section.

(e) REGULATIONS.—

(1) PROPOSED REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall publish proposed regulations implementing this section. Such regulations shall be effective immediately on an interim basis, but are subject to change and revision after public notice and opportunity for a period for public comment.

(2) INTERIM, FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(f) REMOVAL OF ALIEN.—The Secretary of Homeland Security may not remove any alien who has a pending application for conditional status under this title.

SEC. 205. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) IN GENERAL.—

(1) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 206, an alien whose status has been adjusted under section 204 to that of an alien lawfully admitted for permanent residence shall be considered to have obtained such status on a conditional basis subject to the provisions of this section. Such conditional permanent resident status shall be valid for a period of 6 years, subject to termination under subsection (b).

(2) NOTICE OF REQUIREMENTS.—

(A) AT TIME OF OBTAINING PERMANENT RESIDENCE.—At the time an alien obtains permanent resident status on a conditional basis under paragraph (1), the Secretary of Homeland Security shall provide for notice to the alien regarding the provisions of this section and the requirements of subsection (c) to have the conditional basis of such status removed.

(B) EFFECT OF FAILURE TO PROVIDE NOTICE.—The failure of the Secretary of Homeland Security to provide a notice under this paragraph—

(i) shall not affect the enforcement of the provisions of this title with respect to the alien; and

(ii) shall not give rise to any private right of action by the alien.

(b) TERMINATION OF STATUS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall terminate the conditional permanent resident status of any alien who obtained such status under this title, if the Secretary determines that the alien—

(A) ceases to meet the requirements of subparagraph (B) or (C) of section 204(a)(1);

(B) has become a public charge; or

(C) has received a dishonorable or other than honorable discharge from the uniformed services.

(2) RETURN TO PREVIOUS IMMIGRATION STATUS.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status under this title.

(c) REQUIREMENTS OF TIMELY PETITION FOR REMOVAL OF CONDITION.—

(1) IN GENERAL.—In order for the conditional basis of permanent resident status obtained by an alien under subsection (a) to be removed, the alien must file with the Secretary of Homeland Security, in accordance with paragraph (3), a petition which requests the removal of such conditional basis and which provides, under penalty of perjury, the facts and information so that the Secretary may make the determination described in paragraph (2)(A).

(2) ADJUDICATION OF PETITION TO REMOVE CONDITION.—

(A) IN GENERAL.—If a petition is filed in accordance with paragraph (1) for an alien, the Secretary of Homeland Security shall make a determination as to whether the alien meets the requirements set out in subparagraphs (A) through (E) of subsection (d)(1).

(B) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and immediately remove the conditional basis of the status of the alien.

(C) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(3) TIME TO FILE PETITION.—An alien may petition to remove the conditional basis to lawful resident status during the period beginning 180 days before and ending 2 years after either the date that is 6 years after the date of the granting of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary of Homeland Security in accordance with this title. The alien shall be deemed in conditional permanent resident status in the United States during the period in which the petition is pending.

(d) DETAILS OF PETITION.—

(1) CONTENTS OF PETITION.—Each petition for an alien under subsection (c)(1) shall contain information to permit the Secretary of Homeland Security to determine whether each of the following requirements is met:

(A) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(B) The alien is in compliance with section 204(a)(1)(C).

(C) The alien has not abandoned the alien's residence in the United States. The Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 365 days, in the aggregate, during the period of conditional residence, unless the alien demonstrates that alien has not abandoned the alien's residence. An alien who is absent from the United States due to active service in the uniformed services has not abandoned the alien's residence in the United States during the period of such service.

(D) The alien has completed at least 1 of the following:

(i) The alien has acquired a degree from an institution of higher education in the United States or has completed at least 2 years, in good standing, in a program for a bachelor's degree or higher degree in the United States.

(ii) The alien has served in the uniformed services for at least 2 years and, if discharged, has received an honorable discharge.

(E) The alien has provided a list of all of the secondary educational institutions that the alien attended in the United States.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary of Homeland Security may, in the Secretary's discretion, remove the conditional status of an alien if the alien—

(i) satisfies the requirements of subparagraphs (A), (B), and (C) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to complete the requirements described in paragraph (1)(D); and

(iii) demonstrates that the alien's removal from the United States would result in exceptional and extremely unusual hardship to the alien or the alien's spouse, parent, or child who is a citizen or a lawful permanent resident of the United States.

(B) EXTENSION.—Upon a showing of good cause, the Secretary of Homeland Security may extend the period of the conditional resident status for the purpose of completing the requirements described in paragraph (1)(D).

(e) TREATMENT OF PERIOD FOR PURPOSES OF NATURALIZATION.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), in the case of an alien who is in the United States as a lawful permanent resident on a conditional basis under this section, the alien shall be considered to have been admitted as an alien lawfully admitted for permanent residence and to be in the United States as an alien lawfully admitted to the United States for permanent residence. However, the conditional basis must

be removed before the alien may apply for naturalization.

SEC. 206. RETROACTIVE BENEFITS UNDER THIS TITLE.

If, on the date of enactment of this Act, an alien has satisfied all the requirements of subparagraphs (A) through (E) of section 204(a)(1) and section 205(d)(1)(D), the Secretary of Homeland Security may adjust the status of the alien to that of a conditional resident in accordance with section 204. The alien may petition for removal of such condition at the end of the conditional residence period in accordance with section 205(c) if the alien has met the requirements of subparagraphs (A), (B), and (C) of section 205(d)(1) during the entire period of conditional residence.

SEC. 207. EXCLUSIVE JURISDICTION.

(a) IN GENERAL.—The Secretary of Homeland Security shall have exclusive jurisdiction to determine eligibility for relief under this title, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for relief under this title, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this title.

(b) STAY OF REMOVAL OF CERTAIN ALIENS ENROLLED IN PRIMARY OR SECONDARY SCHOOL.—The Attorney General shall stay the removal proceedings of any alien who—

(1) meets all the requirements of subparagraphs (A), (B), (C), and (E) of section 204(a)(1);

(2) is at least 12 years of age; and

(3) is enrolled full time in a primary or secondary school.

(c) EMPLOYMENT.—An alien whose removal is stayed pursuant to subsection (b) may be engaged in employment in the United States, consistent with the Fair Labor Standards Act (29 U.S.C. 201 et seq.), and State and local laws governing minimum age for employment.

(d) LIFT OF STAY.—The Attorney General shall lift the stay granted pursuant to subsection (b) if the alien—

(1) is no longer enrolled in a primary or secondary school; or

(2) ceases to meet the requirements of subsection (b)(1).

SEC. 208. PENALTIES FOR FALSE STATEMENTS IN APPLICATION.

Whoever files an application for relief under this title and willfully and knowingly falsifies, misrepresents, or conceals a material fact or makes any false or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false or fraudulent statement or entry, shall be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.

SEC. 209. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—No officer or employee of the United States may—

(1) use the information furnished by the applicant pursuant to an application filed under this title to initiate removal proceedings against any persons identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this title can be identified; or

(3) permit anyone other than an officer or employee of the United States Government or, in the case of applications filed under this title with a designated entity, that designated entity, to examine applications filed under this title.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary of Homeland Security shall provide the information furnished under this section, and any other information derived from such furnished information, to—

(1) a duly recognized law enforcement entity in connection with an investigation or prosecution of an offense described in paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), when such information is requested in writing by such entity; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

(c) PENALTY.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 210. EXPEDITED PROCESSING OF APPLICATIONS; PROHIBITION ON FEES.

Regulations promulgated under this title shall provide that applications under this title will be considered on an expedited basis and without a requirement for the payment by the applicant of any additional fee for such expedited processing.

SEC. 211. HIGHER EDUCATION ASSISTANCE.

Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), with respect to assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), an alien who adjusts status to that of a lawful permanent resident under this title shall be eligible only for the following assistance under such title:

(1) Student loans under parts B, D, and E of such title IV (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.), subject to the requirements of such parts.

(2) Federal work-study programs under part C of such title IV (42 U.S.C. 2751 et seq.), subject to the requirements of such part.

(3) Services under such title IV (20 U.S.C. 1070 et seq.), subject to the requirements for such services.

SEC. 212. GAO REPORT.

Seven years after the date of enactment of this title, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the Senate and the House of Representatives setting forth—

(1) the number of aliens who were eligible for cancellation of removal and adjustment of status under section 204(a);

(2) the number of aliens who applied for adjustment of status under section 204(a);

(3) the number of aliens who were granted adjustment of status under section 204(a); and

(4) the number of aliens whose conditional permanent resident status was removed under section 205.

SA 5030. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table, as follows:

On page 5, strike line 9 and all that follows through page 6, line 2.

SA 5031. Mr. FRIST proposed an amendment to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; as follows:

At the end of the bill, add the following:

This Act shall become effective 2 days after the date of enactment.

SA 5032. Mr. FRIST proposed an amendment to amendment SA 5031 proposed by Mr. FRIST to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; as follows:

On page 1, line 1 of the amendment, strike ''2 days'' and insert ''1 day''.

SA 5035. Mr. FRIST (for Mr. LUGAR (for himself, Mr. BROWNBACK, Mr. MARTINEZ, Mr. HAGEL, Mr. CORNYN, Mrs. HUTCHISON, Mr. DEWINE, Mr. COLEMAN, Mr. CHAFEE, Mr. ALEXANDER, Mr. SUNUNU, and Mr. SPECTER)) proposed an amendment to the bill H.R. 3127, to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Darfur Peace and Accountability Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. DEFINITIONS.

In this Act:

(1) AMIS.—The term ''AMIS'' means the African Union Mission in Sudan.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(3) COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.—The term ''Comprehensive Peace Agreement for Sudan'' means the peace agreement signed by the Government of Sudan and the SPLM/A in Nairobi, Kenya, on January 9, 2005.

(4) DARFUR PEACE AGREEMENT.—The term ''Darfur Peace Agreement'' means the peace agreement signed by the Government of Sudan and by Minni Minnawi, leader of the Sudan Liberation Movement/Army Faction, in Abuja, Nigeria, on May 5, 2006.

(5) GOVERNMENT OF SUDAN.—The term ''Government of Sudan''—

(A) means—

(i) the government in Khartoum, Sudan, which is led by the National Congress Party (formerly known as the National Islamic Front); or

(ii) any successor government formed on or after the date of the enactment of this Act (including the coalition National Unity Government agreed upon in the Comprehensive Peace Agreement for Sudan); and

(B) does not include the regional government of Southern Sudan.

(6) OFFICIALS OF THE GOVERNMENT OF SUDAN.—The term ''official of the Government of Sudan'' does not include any individual—

(A) who was not a member of such government before July 1, 2005; or

(B) who is a member of the regional government of Southern Sudan.

(7) SPLM/A.—The term ''SPLM/A'' means the Sudan People's Liberation Movement/Army.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) On July 23, 2004, Congress declared, ''the atrocities unfolding in Darfur, Sudan, are genocide''.

(2) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate, ''genocide has occurred and may still be occurring in Darfur'', and ''the Government of Sudan and the Janjaweed bear responsibility''.

(3) On September 21, 2004, in an address before the United Nations General Assembly, President George W. Bush affirmed the Secretary of State's finding and stated,''[a]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide''.

(4) On July 30, 2004, the United Nations Security Council passed Security Council Resolution 1556 (2004), calling upon the Government of Sudan to disarm the Janjaweed militias and to apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law, and establishing a ban on the sale or supply of arms and related materiel of all types, including the provision of related technical training or assistance, to all nongovernmental entities and individuals, including the Janjaweed.

(5) On September 18, 2004, the United Nations Security Council passed Security Council Resolution 1564 (2004), determining that the Government of Sudan had failed to meet its obligations under Security Council Resolution 1556 (2004), calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry on Darfur to investigate violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 (2004) and 1564 (2004), including such actions as to affect Sudan's petroleum sector or individual members of the Government of Sudan.

(6) The Report of the International Commission of Inquiry on Darfur, submitted to the United Nations Secretary-General on January 25, 2005, established that the ''Government of the Sudan and the Janjaweed are responsible for serious violations of international human rights and humanitarian law amounting to crimes under international law,'' that ''these acts were conducted on a widespread and systematic basis, and therefore may amount to crimes against humanity,'' and that officials of the Government of Sudan and other individuals may have acted with ''genocidal intent''.

(7) On March 24, 2005, the United Nations Security Council passed Security Council Resolution 1590 (2005), establishing the United Nations Mission in Sudan (referred to in this section as the ''UNMIS''), consisting of up to 10,000 military personnel and 715 civilian police tasked with supporting the implementation of the Comprehensive Peace Agreement for Sudan and to ''closely and continuously liaise and coordinate at all levels with the African Union Mission in Sudan (AMIS)'', which had been established by the African Union on May 24, 2004, to monitor the implementation of the N'Djamena Humanitarian Ceasefire Agreement, signed on April 8, 2004, ''with a view towards expeditiously reinforcing the effort to foster peace in Darfur''.

(8) On March 29, 2005, the United Nations Security Council passed Security Council Resolution 1591 (2005), extending the military embargo established by Security Council Resolution 1556 (2004) to all the parties to the N'Djamena Ceasefire Agreement of April 8, 2004, and any other belligerents in the states of North Darfur, South Darfur, and West Darfur, calling for an asset freeze and travel ban against those individuals who impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities, are responsible for offensive military overflights, or violate the military embargo, and establishing a Committee of the Security Council and a panel of experts to assist in monitoring compliance with Security Council Resolutions 1556 (2004) and 1591 (2005).

(9) On March 31, 2005, the United Nations Security Council passed Security Council Resolution 1593 (2005), referring the situation in Darfur since July 1, 2002, to the prosecutor of the International Criminal Court and calling on the Government of Sudan and all parties to the conflict to cooperate fully with the Court.

(10) On July 30, 2005, Dr. John Garang de Mabior, the newly appointed Vice President of Sudan and the leader of the SPLM/A for the past 21 years, was killed in a tragic helicopter crash in Southern Sudan, sparking riots in Khartoum and challenging the commitment of all Sudanese to the Comprehensive Peace Agreement for Sudan.

(11) On January 12, 2006, the African Union Peace and Security Council issued a communique endorsing, in principle, a transition from AMIS to a United Nations peacekeeping operation and requested the Chairperson of the Council to initiate consultations with the United Nations and other stakeholders toward this end.

(12) On February 3, 2006, the United Nations Security Council issued a Presidential Statement authorizing the initiation of contingency planning for a transition from AMIS to a United Nations peacekeeping operation.

(13) On March 10, 2006, the African Union Peace and Security Council extended the mandate of AMIS, which had reached a force size of 7,000, to September 30, 2006, while simultaneously endorsing the transition of AMIS to a United Nations peacekeeping operation and setting April 30, 2006 as the deadline for reaching an agreement to resolve the crisis in Darfur.

(14) On March 24, 2006, the United Nations Security Council passed Security Council Resolution 1663 (2006), which—

(A) welcomes the African Peace and Security Council's March 10, 2006 communique; and

(B) requests that the United Nations Secretary-General, jointly with the African Union and in consultation with the parties to the Abuja Peace Talks, expedite planning for the transition of AMIS to a United Nations peacekeeping operation.

(15) On March 29, 2006, during a speech at Freedom House, President Bush called for a transition to a United Nations peacekeeping operation and ''additional forces with a NATO overlay . . . to provide logistical and command-and-control and airlift capacity, but also to send a clear signal to parties involved that the west is determined to help effect a settlement.''.

(16) On April 25, 2006, the United Nations Security Council passed Security Council Resolution 1672 (2006), unanimously imposing targeted financial sanctions and travel restrictions on 4 individuals who had been identified as those who, among other acts, ''impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities'', including the Commander of the Western Military Region for the armed forces of Sudan, the Paramount Chief of the Jalul Tribe in North Darfur, the Commander of the Sudan Liberation Army, and the Field Commander of the National Movement for Reform and Development.

(17) On May 5, 2006, under the auspices of African Union mediation and the direct engagement of the international community, including the United States, the Government of Sudan and the largest rebel faction in Darfur, the Sudan Liberation Movement, led by Minni Minnawi, signed the Darfur Peace Agreement, which addresses security, power sharing, and wealth sharing issues between the parties.

(18) In August 2006, the Sudanese government began to amass military forces and equipment in the Darfur region in contravention of the Darfur Peace Agreement to which they are signatories in what appears to be preliminary to full scale war.

(19) On August 30, 2006, the United Nations Security Council passed Security Council Resolution 1706 (2006), without dissent and with abstentions by China, Russian Federation, and Qatar, thereby asserting that the existing United Nations Mission in Sudan ''shall take over from AMIS responsibility for supporting the implementation of the Darfur Peace Agreement upon the expiration of AMIS' mandate but in any event no later than 31 December 2006'', and that UNMIS ''shall be strengthened by up to 17,300 military personnel . . . 3,300 civilian police personnel and up to 16 Formed Police Units'', which ''shall begin to be deployed [to Darfur] no later than 1 October 2006''.

(20) Between August 30 and September 3, 2006, President Bashir and other senior members of his administration have publicly rejected United Nations Security Council Resolution 1706 (2006), calling it illegal and a western invasion of his country, despite the current presence of 10,000 United Nations peacekeepers under the UNMIS peacekeeping force.

(21) Since 1993, the Secretary of State has determined, pursuant to section 6(j) of the Export Administration Act of 1979 (50 App. U.S.C. 2405(j)), that Sudan is a country, the government of which has repeatedly provided support for acts of international terrorism, thereby restricting United States assistance, defense exports and sales, and financial and other transactions with the Government of Sudan.

SEC. 4. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan;

(2) all parties to the conflict in the Darfur region have continued to violate the N'Djamena Ceasefire Agreement of April 8, 2004, and the Abuja Protocols of November 9, 2004, and violence against civilians, humanitarian aid workers, and personnel of AMIS is increasing;

(3) the African Union should immediately make all necessary preparations for an orderly transition to a United Nations peacekeeping operation, which will maintain an appropriate level of African participation,

with a mandate to protect civilians and humanitarian operations, assist in the implementation of the Darfur Peace Agreement, and deter violence in the Darfur region;

(4) the international community, including the United States and the European Union, should immediately act to mobilize sufficient political, military, and financial resources through the United Nations and the North Atlantic Treaty Organization, to support the transition of AMIS to a United Nations peacekeeping operation with the size, strength, and capacity necessary to protect civilians and humanitarian operations, to assist with the implementation of the Darfur Peace Agreement, and to end the continued violence in the Darfur region;

(5) if an expanded and reinforced AMIS or subsequent United Nations peacekeeping operation fails to stop genocide in the Darfur region, the international community should take additional measures to prevent and suppress acts of genocide in the Darfur region;

(6) acting under article 5 of the Charter of the United Nations, the United Nations Security Council should call for suspension of the Government of Sudan's rights and privileges of membership by the General Assembly until such time as the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize and demilitarize the Janjaweed and associated militias, and grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region;

(7) the President should use all necessary and appropriate diplomatic means to ensure the full discharge of the responsibilities of the Committee of the United Nations Security Council and the panel of experts established pursuant to section 3(a) of Security Council Resolution 1591 (2005);

(8) the President should direct the United States Permanent Representative to the United Nations to use the voice, vote, and influence of the United States to urge the adoption of a resolution by the United Nations Security Council that—

(A) extends the military embargo established by United Nations Security Resolutions 1556 (2004) and 1591 (2005) to include a total ban on the sale or supply of offensive military equipment to the Government of Sudan, except for use in an internationally recognized demobilization program or for nonlethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan or the Darfur Peace Agreement; and

(B) calls upon those member states of the United Nations that continue to undermine efforts to foster peace in Sudan by providing military assistance to the Government of Sudan, government supported militias, or any rebel group operating in Darfur in violation of the embargo on such assistance and equipment, as called for in United Nations Security Council Resolutions 1556 (2004) and 1591 (2005), to immediately cease and desist.

(9) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Comprehensive Peace Agreement for Sudan and the Darfur Peace Agreement, the support of the regional Government of Southern Sudan, the Transitional Darfur Regional Authority, and marginalized areas in Northern Sudan (including the Nuba Mountains, Southern Blue Nile, Abyei, Eastern Sudan (Beja), Darfur, and Nubia), or for humanitarian purposes in Sudan, until the Government of Sudan has honored pledges to cease attacks upon civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance in the Darfur region, and allow for the safe and voluntary return of refugees and internally displaced persons;

(10) the President should seek to assist members of the Sudanese diaspora in the United States by establishing a student loan forgiveness program for those individuals who commit to return to Southern Sudan for a period of not less than 5 years for the purpose of contributing professional skills needed for the reconstruction of Southern Sudan;

(11) the Presidential Special Envoy for Sudan should be provided with appropriate resources and a clear mandate to—

(A) provide stewardship of efforts to implement the Comprehensive Peace Agreement for Sudan and the Darfur Peace Agreement;

(B) seek ways to bring stability and peace to the Darfur region;

(C) address instability elsewhere in Sudan, Chad, and northern Uganda; and

(D) pursue a truly comprehensive peace throughout the region;

(12) the international community should strongly condemn attacks against humanitarian workers and African Union personnel, and the forcible recruitment of refugees and internally displaced persons from camps in Chad and Sudan, and demand that all armed groups in the region, including the forces of the Government of Sudan, the Janjaweed, associated militias, the Sudan Liberation Movement/Army, the Justice and Equality Movement, the National Movement for Reform and Development (NMRD), and all other armed groups refrain from such activities;

(13) the United States should fully support the Comprehensive Peace Agreement for Sudan and the Darfur Peace Agreement and urge rapid implementation of their terms;

(14) the May 5, 2006 signing of the Darfur Peace Agreement between the Government of Sudan and the Sudan Liberation Movement was a positive development in a situation that has seen little political progress in 2 years and should be seized upon by all sides to begin the arduous process of post-conflict reconstruction, restitution, justice, and reconciliation; and

(15) the new leadership of the Sudan People's Liberation Movement (referred to in this paragraph as ''SPLM'') should—

(A) seek to transform SPLM into an inclusive, transparent, and democratic body;

(B) reaffirm the commitment of SPLM to—

(i) bring peace to Southern Sudan, the Darfur region, and Eastern Sudan; and

(ii) eliminate safe haven for regional rebel movements, such as the Lord's Resistance Army; and

(C) remain united in the face of efforts to undermine SPLM.

SEC. 5. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) BLOCKING OF ASSETS AND RESTRICTION ON VISAS.—Section 6 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note) is amended—

(1) in the heading of subsection (b), by inserting ''OF APPROPRIATE SENIOR OFFICIALS OF THE GOVERNMENT OF SUDAN'' after ''ASSETS'';

(2) by redesignating subsections (c) through (e) as subsections (d) through (f), respectively; and

(3) by inserting after subsection (b) the following:

''(c) BLOCKING OF ASSETS AND RESTRICTION ON VISAS OF CERTAIN INDIVIDUALS IDENTIFIED BY THE PRESIDENT.—

''(1) BLOCKING OF ASSETS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall, consistent with the authorities granted under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), block the assets of any individual who the President determines is complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.

''(2) RESTRICTION ON VISAS.—Beginning on the date that is 30 days after the date of the enactment of the Darfur Peace and Accountability Act of 2006, and in the interest of contributing to peace in Sudan, the President shall deny a visa and entry to any individual who the President determines to be complicit in, or responsible for, acts of genocide, war crimes, or crimes against humanity in Darfur, including the family members or any associates of such individual to whom assets or property of such individual was transferred on or after July 1, 2002.''.

(b) WAIVER.—Section 6(d) of the Comprehensive Peace in Sudan Act of 2004, as redesignated by subsection (a), is amended by adding at the end the following: ''The President may waive the application of paragraph (1) or (2) of subsection (c) with respect to any individual if the President determines that such a waiver is in the national interests of the United States and, before exercising the waiver, notifies the appropriate congressional committees of the name of the individual and the reasons for the waiver.''.

(c) SANCTIONS AGAINST JANJAWEED COMMANDERS AND COORDINATORS OR OTHER INDIVIDUALS.—It is the sense of Congress, that the President should immediately impose the sanctions described in section 6(c) of the Comprehensive Peace in Sudan Act of 2004, as added by subsection (a), against any individual, including the Janjaweed commanders and coordinators, identified as those who, among other acts, ''impede the peace process, constitute a threat to stability in Darfur and the region, commit violations of international humanitarian or human rights law or other atrocities''.

SEC. 6. ADDITIONAL AUTHORITIES TO DETER AND SUPPRESS GENOCIDE IN DARFUR.

(a) PRESIDENTIAL ASSISTANCE TO SUPPORT AMIS.—Subject to subsection (b) and notwithstanding any other provision of law, the President is authorized to provide AMIS with—

(1) assistance for any expansion of the mandate, size, strength, and capacity to protect civilians and humanitarian operations in order to help stabilize the Darfur region of Sudan and dissuade and deter air attacks directed against civilians and humanitarian workers; and

(2) assistance in the areas of logistics, transport, communications, material support, technical assistance, training, command and control, aerial surveillance, and intelligence.

(b) CONDITIONS.—

(1) IN GENERAL.—Assistance provided under subsection (a)—

(A) shall be used only in the Darfur region; and

(B) shall not be provided until AMIS has agreed not to transfer title to, or possession of, any such assistance to anyone not an officer, employee or agent of AMIS (or subsequent United Nations peacekeeping operation), and not to use or to permit the use of such assistance for any purposes other than those for which such assistance was furnished, unless the consent of the President has first been obtained, and written assurances reflecting all of the forgoing have been obtained from AMIS by the President.

(2) CONSENT.—If the President consents to the transfer of such assistance to anyone not an officer, employee, or agent of AMIS (or subsequent United Nations peacekeeping operation), or agrees to permit the use of such

assistance for any purposes other than those for which such assistance was furnished, the President shall immediately notify the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1).

(c) NATO ASSISTANCE TO SUPPORT AMIS.—It is the sense of Congress that the President should continue to instruct the United States Permanent Representative to the North Atlantic Treaty Organization (referred to in this section as ''NATO'') to use the voice, vote, and influence of the United States at NATO to—

(1) advocate NATO reinforcement of the AMIS and its orderly transition to a United Nations peacekeeping operation, as appropriate;

(2) provide assets to help dissuade and deter air strikes directed against civilians and humanitarian workers in the Darfur region of Sudan; and

(3) provide other logistical, transportation, communications, training, technical assistance, command and control, aerial surveillance, and intelligence support.

(d) RULE OF CONSTRUCTION.—Nothing in this Act, or any amendment made by this Act, shall be construed as a provision described in section 5(b)(1) or 8(a)(1) of the War Powers Resolution (Public Law 93–148; 50 U.S.C. 1544(b), 1546(a)(1)).

(e) DENIAL OF ENTRY AT UNITED STATES PORTS TO CERTAIN CARGO SHIPS OR OIL TANKERS.—

(1) IN GENERAL.—The President should take all necessary and appropriate steps to deny the Government of Sudan access to oil revenues, including by prohibiting entry at United States ports to cargo ships or oil tankers engaged in business or trade activities in the oil sector of Sudan or involved in the shipment of goods for use by the armed forces of Sudan until such time as the Government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to cargo ships or oil tankers involved in—

(A) an internationally-recognized demobilization program;

(B) the shipment of non-lethal assistance necessary to carry out elements of the Comprehensive Peace Agreement for Sudan or the Darfur Peace Agreement; or

(C) the shipment of military assistance necessary to carry out elements of an agreement referred to in subparagraph (B) if the President has made the determination set forth in section 8(c)(2).

(f) PROHIBITION ON ASSISTANCE TO COUNTRIES IN VIOLATION OF UNITED NATIONS SECURITY COUNCIL RESOLUTIONS 1556 AND 1591.—

(1) PROHIBITION.—Amounts made available to carry out the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) may not be used to provide assistance (other than humanitarian assistance) to the government of a country that is in violation of the embargo on military assistance with respect to Sudan imposed pursuant to United Nations Security Council Resolutions 1556 (2004) and 1591 (2005).

(2) WAIVER.—The President may waive the application of paragraph (1) if the President determines, and certifies to the appropriate congressional committees, that such waiver is in the national interests of the United States.

SEC. 7. CONTINUATION OF RESTRICTIONS.

(a) IN GENERAL.—Restrictions against the Government of Sudan that were imposed pursuant to Executive Order 13067 of November 3, 1997 (62 Federal Register 59989), title III and sections 508, 512, 527, and 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 (Public Law 109–102), or any other similar provision of law, shall remain in effect, and shall not be lifted pursuant to such provisions of law, until the President certifies to the appropriate congressional committees that the Government of Sudan is acting in good faith to—

(1) implement the Darfur Peace Agreement;

(2) disarm, demobilize, and demilitarize the Janjaweed and all militias allied with the Government of Sudan;

(3) adhere to all associated United Nations Security Council Resolutions, including Security Council Resolutions 1556 (2004), 1564 (2004), 1591 (2005), 1593 (2005), 1663 (2006), 1665 (2006), and 1706 (2006);

(4) negotiate a peaceful resolution to the crisis in eastern Sudan;

(5) fully cooperate with efforts to disarm, demobilize, and deny safe haven to members of the Lord's Resistance Army in Sudan; and

(6) fully implement the Comprehensive Peace Agreement for Sudan without manipulation or delay, by—

(A) implementing the recommendations of the Abyei Boundaries Commission Report;

(B) establishing other appropriate commissions and implementing and adhering to the recommendations of such commissions consistent with the terms of the Comprehensive Peace Agreement for Sudan;

(C) adhering to the terms of the Wealth Sharing Agreement; and

(D) withdrawing government forces from Southern Sudan consistent with the terms of the Comprehensive Peace Agreement for Sudan.

(b) WAIVER.—The President may waive the application of subsection (a) if the President determines, and certifies to the appropriate congressional committees, that such waiver is in the national interests of the United States.

SEC. 8. ASSISTANCE EFFORTS IN SUDAN.

(a) ASSISTANCE FOR INTERNATIONAL MALARIA CONTROL ACT.—Section 501 of the Assistance for International Malaria Control Act (Public Law 106–570; 50 U.S.C. 1701 note) is repealed.

(b) COMPREHENSIVE PEACE IN SUDAN ACT.—Section 7 of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 50 U.S.C. 1701 note) is repealed.

(c) ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to provide economic assistance for Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, and marginalized areas in and around Khartoum, in an effort to provide emergency relief, to promote economic self-sufficiency, to build civil authority, to provide education, to enhance rule of law and the development of judicial and legal frameworks, to support people to people reconciliation efforts, and to implement any non-military program in support of any viable peace agreement in Sudan, including the Comprehensive Peace Agreement for Sudan and the Darfur Peace Agreement.

(2) CONGRESSIONAL NOTIFICATION.—Assistance may not be obligated under this subsection until 15 days after the date on which the Secretary of State notifies the congressional committees specified in section 634A of the Foreign Assistance Act of 1961 (22 U.S.C. 2394–1) of such obligation in accordance with the procedures applicable to reprogramming notifications under such section.

(d) AUTHORIZED MILITARY ASSISTANCE.—

(1) IN GENERAL.—If the President has not made a certification under section 12(a)(3) of the Sudan Peace Act (50 U.S.C. 1701 note) regarding the noncompliance of the SPLM/A or the Government of Southern Sudan with the Comprehensive Peace Agreement for Sudan, the President, notwithstanding any other provision of law, may authorize, for each of fiscal years 2006, 2007, and 2008, the provision of the following assistance to the Government of Southern Sudan for the purpose of constituting a professional military force—

(A) non-lethal military equipment and related defense services, including training, controlled under the International Traffic in Arms Regulations (22 C.F.R. 120.1 et seq.) if the President—

(i) determines that the provision of such items is in the national security interest of the United States; and

(ii) not later than 15 days before the provision of any such items, notifies the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of such determination; and

(B) small arms and ammunition under categories I and III of the United States Munitions List (22 C.F.R. 121.1 et seq.) if the President—

(i) determines that the provision of such equipment is essential to the national security interests of the United States; and

(ii) consistent with the procedures set forth in section 614(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2364(a)(3)), notifies the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives of such determination.

(2) END USE ASSURANCES.—For each item exported pursuant to this subsection or subsection (c), the President shall include with the notification to Congress under subparagraphs (A)(ii) and (B)(ii) of paragraph (1)—

(A) an identification of the end users to which the provision of assistance is being made;

(B) the dollar value of the items being provided;

(C) a description of the items being provided; and

(D) a description of the end use verification procedures that will be applied to such items, including—

(i) any special assurances obtained from the Government of Southern Sudan or other authorized end users regarding such equipment; and

(ii) the end use or retransfer controls that will be applied to any items provided under this subsection.

(3) WAIVER AUTHORITY.—Section 40 of the Arms Export Control Act (22 U.S.C. 2780) shall not apply to assistance provided under paragraph (1).

(e) EXCEPTION TO PROHIBITIONS IN EXECUTIVE ORDER NUMBER 13067.—Notwithstanding any other provision of law, the prohibitions set forth with respect to Sudan in Executive Order No. 13067 (62 Fed. Reg. 59989) shall not apply to activities or related transactions with respect to Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, or marginalized areas in and around Khartoum.

SEC. 9. REPORTING REQUIREMENTS.

Section 8 of the Sudan Peace Act (Public Law 107–245; 50 U.S.C. 1701 note) is amended—

(1) by redesignating subsection (c) as subsection (g); and

(2) by inserting after subsection (b) the following:

''(c) REPORT ON AFRICAN UNION MISSION IN SUDAN.—Until such time as AMIS concludes its mission in Darfur, in conjunction with the other reports required under this section, the Secretary of State, in consultation with all relevant Federal departments and agencies, shall prepare and submit a report, to the appropriate congressional committees, regarding—

''(1) a detailed description of all United States assistance provided to the African Union Mission in Sudan (referred to in this subsection as 'AMIS') since the establishment of AMIS, reported by fiscal year and the type and purpose of such assistance; and

''(2) the level of other international assistance provided to AMIS, including assistance from countries, regional and international organizations, such as the North Atlantic Treaty Organization, the European Union, the Arab League, and the United Nations, reported by fiscal year and the type and purpose of such assistance, to the extent possible.

''(d) REPORT ON SANCTIONS IN SUPPORT OF PEACE IN DARFUR.—In conjunction with the other reports required under this section, the Secretary of State shall submit a report to the appropriate congressional committees regarding sanctions imposed under section 6 of the Comprehensive Peace in Sudan Act of 2004, including—

''(1) a description of each sanction imposed under such provision of law;

''(2) the name of the individual or entity subject to the sanction, if applicable; and

''(3) whether or not such individual has been identified by the United Nations panel of experts.

''(e) REPORT ON UNITED STATES MILITARY ASSISTANCE.—In conjunction with the other reports required under this section, the Secretary of State shall submit a report to the appropriate congressional committees describing the effectiveness of any assistance provided under section 8 of the Darfur Peace and Accountability Act of 2006, including—

''(1) a detailed annex on any military assistance provided in the period covered by this report;

''(2) the results of any review or other monitoring conducted by the Federal Government with respect to assistance provided under that Act; and

''(3) any unauthorized retransfer or use of military assistance furnished by the United States.''.

SA 5034. Mr. CRAIG proposed an amendment to the bill S. 2562, to increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; as follows:

On page 4, after line 8, add the following:

SEC. 4. TECHNICAL AMENDMENT.

Section 1311 of title 38, United States Code, is amended by redesignating the second subsection (e) (as added by section 301(a) of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3610)) as subsection (f).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, September 21, 2006, at 10 a.m. to mark up an original bill entitled the Export-Import Bank Reauthorization Act of 2006.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a full committee hearing on pending nominations on Thursday, September 21, 2006 at 2:30 p.m.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. THUNE. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, September 21 at 10 a.m. The purpose of the hearing is to consider the nomination of Mary Amelia Bomar, of Pennsylvania, to be Director of the National Park Service, Vice Frances P, Mainella, resigned.

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

COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. THUNE. Mr. President: I ask unanimous consent that on Thursday, September 21st, 2006 at 10:15 a.m. the Committee on Environment and Public Works be authorized to hold a Business Meeting to consider the following agenda:

Legislation:

H.R. 1463, To designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, VA, as the 'Justin W. Williams United States Attorney's Building.'

Nominations:

Roger Romulus Martella, Jr. to be Assistant Administrator of the Environmental Protection Agency

Alex A. Beehler to be Assistant Administrator of the Environmental Protection Agency

William H. Graves to be a Member of the Board of Directors of the Tennessee Valley Authority

Brigadier General Bruce Arlan Berwick to be a Member of the Mississippi River Commission

Colonel Gregg F. Martin to be a Member of the Mississippi River Commission

Brigadier General Robert Crear to be a Member of the Mississippi River Commission

Rear Admiral Samuel P. DeBow, Jr. to be a Member of the Mississippi River Commission

Resolutions:

6 Committee resolutions authorizing prospectuses from GSA's fiscal year 2007 Capital Investment and Leasing Program

Committee resolution to direct GSA to prepare a Report of Building Project Survey

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

COMMITTEE ON FINANCE

Mr. Thune. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, September 21, 2006, at 10:00 a.m., in 215 Dirksen Senate Office Building, to consider the nomination of Mr. John K. Veroneau, of Virginia, to be Deputy United States Trade Representative, with the Rank of Ambassador, Executive Office of the President.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, September 21, 2006, at 9:30 a.m. to hold a hearing on Afghanistan.

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

COMMITTEE ON THE JUDICIARY

Mr. THUNE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, September 21, 2006, at 9:30 a.m. in the Dirksen Senate Office Building Room 226.

Agenda

I. Nominations

Terrence W. Boyle, to be U.S. Circuit Judge for the Fourth Circuit; William James Haynes II, to be U.S. Circuit Judge for the Fourth Circuit; Kent A. Jordan, to be U.S. Circuit Judge for the Third Circuit; Peter D. Keisler, to be U.S. Circuit Judge for the District of Columbia Circuit; William Gerry Myers III, to be U.S. Circuit Judge for the Ninth Circuit; Norman Randy Smith, to be U.S. Circuit Judge for the Ninth Circuit; Valerie L. Baker, to be U.S. District Judge for the Central District of California; Francisco Augusto Besosa, to be U.S. District Judge for the District of Puerto Rico; Nora Barry Fischer, to be U.S. District Judge for the Western District of Pennsylvania; Gregory Kent Frizzell, to be U.S. District Judge for the Northern District of Oklahoma; Philip S. Gutierrez, to be U.S. District Judge for the Central District of California; Marcia Morales Howard, to be U.S. District Judge for the Middle District of Florida; John Alfred Jarvey, to be U.S. District Judge for the Southern District of Iowa; Sara Elizabeth Lioi, to be U.S. District Judge for the Northern District of Ohio; Lawrence Joseph O'Neill, to be U.S. District Judge for the Eastern District of California; Lisa Godbey Wood; to be U.S. District Judge for the Southern District of Georgia.

II. Bills

S. 2831, Free Flow of Information Act of 2006, Lugar, Specter, Schumer, Graham, Biden, Grassley;

S. 155, Gang Prevention and Effective Deterrence Act of 2005, Feinstein,

Hatch, Grassley, Cornyn, Kyl, Specter;

S. 1845, Circuit Court of Appeals Restructuring and Modernization Act of 2005, Ensign, Kyl;

S. 394, Open Government Act of 2005, Cornyn, Leahy, Feingold;

S. 3880, Animal Enterprise Terrorism Act, Inhofe, Feinstein;

S. 2644, Perform Act of 2006, Feinstein, Graham, Biden;

S. 3818, Patent Reform Act of 2006, Hatch, Leahy.

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

COMMITTEE ON THE JUDICIARY

Mr. THUNE. Mr. President, I ask unanimous consent that the Subcommittee on Corrections and Rehabilitation be authorized to meet to conduct a hearing on ''Oversight of Federal Assistance for Prisoner Rehabilitation and Reentry in Our States'' on Thursday, September 21, 2006, at 2:30 p.m. in SD226.

Witness List:

Panel I: Mason Bishop, Deputy Assistant Secretary, Employment and Training Administration, U.S. Department of Labor, Washington, DC, Regina Schofield, Assistant Attorney General, Office of Justice Programs, U.S. Department of Justice, Washington, DC, Robert Bogart, Director, Center for Faith Based and Community Initiatives, U.S. Department of Housing and Urban Development, Washington, DC, Cheri Nolan, Senior Policy Advisor, Criminal and Juvenile Justice at the Substance Abuse and Mental Health Administration, Department of Health and Human Services, Washington, DC.

Panel II: Roger Werholtz, Secretary of Corrections, Kansas Department of Corrections, Topeka, KS, Diane Williams, President and CEO, Safer Foundation, Chicago, IL.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. THUNE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 21, 2006 at 2:30 p.m to hold a closed hearing.

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

SPECIAL COMMITTEE ON AGING

Mr. THUNE. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Thursday, September 21, 2006 from 10 a.m.–12 p.m. in Dirksen 562 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON WATER AND POWER

Mr. THUNE. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power be authorized to meet during the session of the Senate on Thursday, September 21 at 2:30 p.m.

The purpose of the hearing is to receive testimony on S. 1106, to authorize the construction of the Arkansas Valley conduit in the State of Colorado, and for other purposes; S. 1811, to authorize the Secretary of the Interior to study the feasibility of enlarging the Argur V. Watkins Dam Weber Basin Project, UT, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized; S. 2070, to provide certain requirements for hydroelectric projects on the Mohawk River in the State of New York; S. 3522, to amend the Bonneville Power Administration portions of the Fisheries Restoration and Irrigation Mitigation Act of 2000 to authorize appropriations for fiscal years 2006 through 2012, and for other purposes; S. 3832, to direct the Secretary of the Interior to establish criteria to transfer title to reclamation facilities, and for other purposes; S. 3851, to provide for the extension of preliminary permit periods by the Federal Energy Regulatory Commission for certain hydroelectric projects in the State of Alaska; S. 3798, to direct the Secretary of the Interior to exclude and defer from the pooled reimbursable costs of the unused capacity of the Folsome South Canal, Auburn-Folsom South Unit, Central Valley Project, and for other purposes; H.R. 2563, to authorize the Secretary of the Interior to conduct feasibility studies to address certain water shortages within the Snake, Boise, and Payette River systems in Idaho, and for other purposes; and H.R. 3897, to authorize the Secretary of the Interior, acting through the Bureau of Reclamation to enter into a cooperative agreement with the Madera Irrigation District for purposes of supporting the Madera Water Supply Enhancement Project.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 737, 831, 905, 906, 909, 910, 911, 912, 913, 914, 915, 916, and all nominations on the Secretary's desk. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF JUSTICE

Kenneth L. Wainstein, of Virginia, to be an Assistant Attorney General. (New Position)

Frank R. Jimenez, of Florida, to be General Counsel of the Department of the Navy.

COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral (lower half)

Capt. Thomas F. Atkin, 0000
Capt. Christopher C. Colvin, 0000
Capt. Cynthia A. Coogan, 0000
Capt. David T. Glenn, 0000
Capt. Mary E. Landry, 0000
Capt. Ronald J. Rabago, 0000
Capt. Paul F. Zukunft, 0000

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Stephen Goldsmith, of Indiana, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2010. (Reappointment)

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

Sandra Pickett, of Texas to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2010. (Reappointment)

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Roger L. Hunt, of Nevada, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 9, 2009.

John E. Kidde, of California, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 2011.

NATIONAL INSTITUTE FOR LITERACY

Eliza McFadden, of Florida, to be a Member of the National Institute for Literacy Advisory Board for a term expiring January 30, 2009, vice Douglas Carnine, term expired.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Jane M. Doggett, of Montana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

DEPARTMENT OF LABOR

Randolph James Clerihue, of Virginia, to be an Assistant Secretary of Labor.

NATIONAL SCIENCE FOUNDATION

Arthur K. Reilly, of New Jersey, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

DEPARTMENT OF EDUCATION

Lauran M. Maddox, of Virginia, to be Assistant Secretary for Communications and Outreach, Department of Education.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

COAST GUARD

PN1965 COAST GUARD nomination of Tina J. Urban, which was received by the Senate and appeared in the Congressional Record of September 7, 2006.

PUBLIC HEALTH SERVICE

PN1851 PUBLIC HEALTH SERVICE nominations (256) beginning Judith Louise Bader, and ending Raquel Antonia Peat, which nominations were received by the Senate and appeared in the Congressional Record of July 27, 2006.

Mr. LEAHY. Mr. President, today we consider a nominee for the new position of Assistant Attorney General for the National Security Division. All too often, in the Bush-Cheney administration, national security has been cited as a justification for overriding the rule of law and for imposing unprecedented secrecy. With the acquiescence of the Republican-controlled Congress, this administration may be the most unresponsive in history and the most unaccountable.

Ken Wainstein is President Bush's selection to be the first Assistant Attorney General for National Security, a new position created by Congress. I will not oppose this nomination in the hope that Mr. Wainstein will work with us and be responsive to the Senate.

I have concerns about this administration's unilateral approach to national security issues. Four years ago, the Office of Legal Counsel at the Justice Department issued a secret legal opinion concluding that the President of the United States had the power to override domestic and international laws outlawing torture. The memo sought to redefine torture and asserted that the President enjoys ''complete authority over the conduct of war'' and asserted that application of the criminal law passed by Congress prohibiting torture ''in a manner that interferes with the president's direction of such core war matters as the detention and interrogation of enemy combatants would be unconstitutional.'' It seemed to assert that the President could immunize people from prosecution for violations of U.S. criminal laws that prohibit torture. This memo was withdrawn only after it became public because it could not withstand public scrutiny.

We have learned through the media of warrantless wiretapping and datamining conducted by this administration. This, despite the Foreign Surveillance Intelligence Act and its express provisions, as well as the actions of the Senate in voting to curtail the datamining programs by Admiral Poindexter at the Defense Department. We have yet to be provided with a convincing legal justification for these programs. We have yet to be able to investigate or hold the administration accountable. Instead, every effort at oversight and accountability has been obstructed or curtailed by the administration. The administration refuses to follow the law and submit matters to the FISA Court and claims state secrets to force court challenges to be dismissed. The administration tells the Senate when, what and how it may investigate. The Department of Justice's own internal Office of Professional Responsibility's probe of whether lawyers at the Department violated ethical rules in justifying these activities was shut down by the Attorney General and the White House.

I was disappointed 2 weeks ago when the Judiciary Committee reported out a bill on party lines that would rubberstamp the administration's warrantless wiretapping. We were told that the administration would only follow the law if we passed the legislation endorsed by Vice President CHENEY. This is a bill that would expand governmental power and reduce governmental accountability in an area in which we have been unable to engage in effective oversight. As I have said many times and as I continue to believe, we should not legislate in this area until we know more about the NSA's domestic spying activities and more about why the administration chose to flout the law and bypass both the FISA Court and the Congress.

I support Senator FEINSTEIN's bipartisan bill, which we also reported out of committee, and I commend her for her hard work to get it done. We should follow Senator FEINSTEIN's thoughtful, cautious, and narrowly tailored approach. Her bill addresses the one concrete problem with FISA that the Attorney General identified, by making it easier for the Government to initiate electronic surveillance in emergency situations. It also clarifies that FISA does not require the Government to obtain a warrant in order to intercept foreign-to-foreign communications, regardless of where the interception occurs.

At the same time, we should continue to press the administration for information. We should not take ''no'' for an answer. As this administration continues to expand its power, the Department of Justice should be advising the President to obey the law and respect the Congress and the courts, not just helping to rationalize actions and forestall oversight.

In theory, the new position to which Mr. Wainstein has been nominated might help Department of Justice attorneys to act responsibly on national security issues, rather than just to do the White House's bidding. It should put national security issues into the hands of experts, not political cronies. In fact, the WMD Commission recommended in March of last year that the different components of the Department's dealings with national security, terrorism, counterintelligence, and foreign intelligence surveillance be combined to eliminate deficiencies and inefficiencies in the Department's national security efforts. Congress acted to create the post. This new Assistant Attorney General position can only serve a useful role if the person who occupies it is willing to think independently. This administration has consistently prized loyalty over independence and expertise.

Mr. Wainstein has some experience as a prosecutor, but he has also been a loyal official of this administration for some time now. I hope that he will be able to look at the crucial national security issues to be handled by this new office with a critical eye and a view toward respecting law and the Congress. If he does, he will be a breath of fresh air in the Bush-Cheney administration.

Recently, Judiciary Committee Chairman SPECTER and I received a letter from the Fraternal Order of Police. The FOP ''endorsed'' Mr. Wainstein ''in order to facilitate his departure from the U.S. Attorney's Office.'' They criticized him for being ''unwilling to perform'' the function of investigating and prosecuting an alleged attack on a police officer. That is not what I would term high praise for his judgment. I ask unanimous consent that a copy of the letter be printed in the RECORD.

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

FRATERNAL ORDER OF POLICE,
Washington, DC, June 9, 2006.

Hon. ARLEN SPECTER,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Hon. PATRICK J. LEAHY,
Ranking Member, Committee on the Judiciary, U.S. Senate, Washington. DC.

DEAR MR. CHAIRMAN SPECTER AND SENATOR LEAHY: I am writing on behalf of the members of the Fraternal Order of Police to advise you of our position on the nomination of Kenneth L. Wainstein, currently the U.S. Attorney for the District of Columbia, to be the Assistant Attorney General for the National Security Division at the U.S. Department of Justice.

The F.O.P. is very frustrated by the manner in which Mr. Wainstein is handling the investigation into the attack on a Federal law enforcement officer by U.S. Representative Cynthia L. McKinney. The grand jury has held this case for more than two months when the usual practice of a Federal prosecutor is to immediately arrest and swiftly indict people that attack police officers. It is clear to us that the accused in this case is receiving special treatment from Mr. Wainstein. This is unacceptable—had the officer's attacker in this case been a visitor to the Capitol instead of a U.S. Representative, it is likely that he or she would have already stood trial. Instead, under the stewardship of Mr. Wainstein, we have a seemingly endless grand jury proceeding and rumored talks of a plea deal, despite the fact that there has not even been an indictment.

Given that the basic function of a prosecutor is to investigate and prosecute cases, and given that Mr. Wainstein seems unwilling to perform this function in a simple assault case, the F.O.P. was initially reluctant to support his nomination to Assistant Attorney General. However, upon further reflection, we have reconsidered. There is a genuine need to have an effective and appropriately aggressive Federal prosecutor in the District of Columbia and, because the responsibilities of the position for which he has been nominated are largely advisory in nature, we have decided to advocate his swift and immediate confirmation in order to facilitate his departure from the U.S. Attorney's office. In so doing, we hope that his replacement will prove to be better able to handle pending cases—particularly those involving assaults on law enforcement officers.

Justice is something that must be vigorously pursued and Mr. Wainstein is waffling. We feel that someone of his temperament is better suited to a less operational position and, for this reason, on behalf of the more than 324,000 members of the Fraternal Order of Police, we urge his expeditious confirmation. I thank you both in advance for your consideration of our views on this matter. If I can be of any further help, please feel free to contact me or Executive Director Jim Pasco at my Washington office.

Sincerely,

CHUCK CANTERBURY,
National President.

Mr. LEVIN. Mr. President, Kenneth Wainstein is President Bush's nominee to be Assistant Attorney General for National Security at the Department of Justice. From July 2002 to March 2003, Mr. Wainstein was the general counsel at the FBI and from March 2003 until May 2004 Mr. Wainstein was the FBI Director's chief of staff.

FBI documents, released in response to a Freedom of Information Act request, show that during Mr.

Wainstein's tenure at the Bureau, FBI agents at Guantanamo sent e-mails to FBI headquarters objecting to DOD interrogation techniques being used on detainees there. FBI agents described DOD's methods as ''torture'' techniques and expressed alarm over military interrogation plans.

Over the past several months I have posed a number of questions to Mr. Wainstein and Mr. Marion Bowman, who was his former deputy at the FBI General Counsel's office, regarding their knowledge of those concerns and their actions in response to hearing about them. I also requested from the Department of Justice a number of documents relevant to Mr. Wainstein's nomination.

Mr. Wainstein's June 19, 2006, answers confirm that he was aware and ''there was wide awareness within the FBI—that FBI personnel stationed at Guantanamo disagreed with the aggressive techniques that were authorized to be used there. . . .'' His July 14, 2006, letter to me indicated that the FBI's Office of General Counsel conveyed those concerns to the Department of Defense's General Counsel and said that his office expected that DOD would address the FBI concerns. Mr. Wainstein also told me in his July 14 letter that he discussed detainee interrogations with FBI Director Mueller and that the Director ''maintained a bright line rule barring FBI personnel from involvement in interviews that employed techniques inconsistent with FBI guidelines.'' I will ask that copies of my letters to Mr. Wainstein and his replies to me be printed in the RECORD.

In connection with Mr. Wainstein's nomination, I also posed a number of questions to Mr. Bowman, Mr. Wainstein's deputy in the FBI General Counsel's office. Over the August recess, I received a reply to my most recent letter to Mr. Bowman. I will ask that copies of my letters to Mr. Bowman and his responses to me be printed in the RECORD.

Mr. Bowman's answers to my earlier questions and his more recent response shed additional light on the concerns about detainee treatment at Guantanamo. Mr. Bowman wrote on June 27, 2006, that after he heard from FBI personnel in Guantanamo in late 2002, he believes that he ''recommended—to Wainstein—that we notify DOD's general counsel that there were concerns about the treatment of detainees at Guantanamo.'' Mr Bowman also said in that reply that he learned of ''legal concerns among some DOD personnel about the DOD tactics.''

With regards to the directive issued by FBI Director Mueller that FBI personnel ''stand clear'' of any interrogations that used techniques other than those approved by the FBI, Mr. Bowman wrote me on August 7, 2006, that he does not recall when Director Mueller issued the policy. However, Mr. Bowman recalled a discussion that reflected the concerns that FBI leaders had about what they were hearing from Guantanamo. Mr. Bowman told me:

> As soon as I heard [about concerns about interrogation tactics] from BAU [the Behavioral Analysis Unit] [in late 2002] I talked with (now retired Executive Assistant Director Pat D'Amuro who immediately said we (the FBI) would not be a party to actions of any kind that were contrary to FBI policy and that individuals should distance themselves from any such actions. . . . He made it abundantly clear that FBI would adhere to its standards and, to the extent possible, would not put itself in a position that would create even the appearance that those standards had been compromised by physical association with activities inconsistent with the tenets of the Bureau.

The responses of Mr. Wainstein and Mr. Bowman contrast with those of Alice Fisher, who the Senate confirmed earlier this week to be head of the Criminal Division at the Department of Justice. Throughout her nomination process, Ms. Fisher maintained that she heard nothing about FBI concerns regarding DOD interrogation techniques other than vague concerns about effectiveness. Mr. Wainstein has said that ''there was wide awareness within the FBI—that FBI personnel stationed at Guantanamo disagreed with the aggressive techniques that were authorized to be used there. . . .'' While Ms. Fisher was in the Criminal Division at DOJ and not the FBI, her claim of no awareness strikes me as somewhat incredible given the raging dispute going on between the FBI and DOD. As I urged in the debate on Ms. Fisher's confirmation, I felt it essential that documents which might shed light on whether she was aware of that dispute be made available to the Senate.

In Mr. Wainstein's case, I have been able to question officials who worked with Mr. Wainstein. Mr. Bowman answered my letters. In the case of Ms. Fisher, the Justice Department continues to block people who worked for her, namely David Nahmias and Bruce Swartz, from answering my questions.

I continue to be troubled by the Department of Justice's stonewalling of my requests for documents relevant to events at Guantanamo. The Department's stonewalling is simply the latest example of the Department's pattern of secrecy and obstruction.

For years, this administration has run roughshod over a compliant Republican-controlled Congress. Congressional oversight is desperately lacking. The Department's continuing denial to the Senate access to information we need to carry out our responsibilities violates fundamental constitutional principles. Every Senator should stand up for the right of any individual Senator to review relevant documents.

That said, Mr. Wainstein and his deputy Mr. Bowman have been forthcoming. They do not control the documents I seek. The Department of Justice does. Either or both of those men might be willing to provide them. Unfortunately, neither is in a position to do so. Mr. Wainstein has answered to the best of his ability and I will support his nomination.

Mr. President, I ask unanimous consent that the letters to which I referred be printed in the RECORD.

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

U.S. SENATE,
Washington, DC, June 9, 2006.

Mr. KENNETH WAINSTEIN,
Washington, DC.

DEAR MR. WAINSTEIN: I have reviewed your answers to my Questions for the Record and would appreciate you clarifying a number of your responses and providing some additional information which is relevant to them and the consideration of your nomination.

1. Please provide an unredacted version of each of the documents contained in the packet I provided.

2. Question 1D (ii) in my questions asked whether you or anyone in your office raised concerns about Department of Defense (DoD) interrogation techniques with the DoD, including the DoD General Counsel. Your answer stated ''I also understand that the FBI's Office of the General Counsel conveyed those concerns to the DoD office of the General Counsel.''

(A) When did the FBI Office of General Counsel convey those concerns?

(B) Were those concerns conveyed orally or in writing? If orally, please summarize the substance of the concerns that were communicated. If in writing, please provide copies. In addition, please provide the name(s) of the person(s) in the FBI's Office of the General Counsel who communicated those concerns, if they were conveyed orally, or who drafted the communication, if they were conveyed in writing.

3. Question 2B asked about Document #2 in the packet I provided. Your response stated, ''I am not aware that any attorney from the FBI office of the General Counsel examined the legal analysis in the document . . .'' I am attempting to reconcile that response with several other documents in the packet I provided:

Document #2A, an email dated December 2, 2002, requests that the ''Legal Issues Doc'' be forwarded to ''Spike Bowman,'' presumably referring to Marion Bowman, a senior attorney in the FBI Office of General Counsel.

Document #2B, an email sent by Marion Bowman and dated December 3, 2002, is entitled ''Fwd Re Legal Issues Re GTMO.''

Document #2C, an email dated December 9, 2002, refers to a legal review being undertaken by Mr. Bowman and states that documents attached may be of interest to that review, including ''a review of interrogation methods by a DoD lawyer'' who ''worked hard to write a legal justification for the type of interviews they (the Army) want to conduct here.''

Document #2E, an email dated December 17, 2002, is a response from Marion Bowman and is entitled ''Fwd Legal Issues re Guantanamo Bay.''

Those emails clearly demonstrate that a senior attorney in your office was aware of legal issues being raised by FBI employees with regard to DoD interrogation techniques at Guantanamo. Indeed, they indicate that a review of those techniques was undertaken by that same senior attorney.

(A) Were you aware of FBI personnel at Guantanamo, or their supervisors, contacting Mr. Marion Bowman or other attorneys in the FBI Office of the General Counsel regarding legal issues relating to Defense Department interrogation techniques at Guantanamo in 2002 or 2003? If so, did you discuss this with anyone in the FBI or take any other action?

(B) Were you aware of Mr. Bowman or other attorneys in the FBI Office of General

Counsel ''reviewing legal aspects of interviews'' conducted at Guantanamo in 2002 or 2003? If so, did you discuss this with them or take any other action?

(C) Were you aware of Mr. Bowman or other attorneys in the FBI Office of General Counsel being provided documents ''of interest'' to a review of legal aspects of interviews at Guantanamo in 2002 or 2003, including a review of interrogation methods by a DoD lawyer? If so, did you review any of these documents, discuss this issue with anyone in the FBI, or take any other action?

(D) Were you aware of any comment that Mr. Bowman or other attorneys in your office may have made to FBI personnel in Guantanamo in 2002 or 2003 regarding DoD interrogation techniques? If so, what was the substance of such comment?

(E) If you were not aware of email exchanges or other communications between FBI personnel and Mr. Marion Bowman or other attorneys in the office of the FBI General Counsel regarding legal aspects relating to interrogation techniques at Guantanamo during the period you were FBI General Counsel, to what do you ascribe your lack of awareness?

(F) Please provide the name of the person who drafted the legal analysis in Document #2.

4. Your answer to Question 3 states that ''Subsequent to the May 20 hearing, the FBI surveyed its personnel who had been in Guantanamo to determine whether any witnessed mistreatment of detainees.'' Please provide the results of that survey.

5. Your answer to Question 4 states that ''in the months following 9/11, the FBI received numerous NSA tips . . .'' Are you aware any instance following 9/11, where the FBI raised a concern with the National Security Agency (NSA) about the workload created by the number of leads being provided to the FBI by the NSA?

6. Question 5 asked about concerns that Director Mueller reportedly had regarding the legal rationale for warrantless wiretaps. Your answer states that it would be ''inappropriate for me to describe any discussions I may have witnessed or had with Director Mueller on this topic.'' Please provide the legal basis for your decision not to describe those discussions.

I look forward to your prompt responses to my questions. Thank you.

Sincerely,

CARL LEVIN.

U.S. SENATE,
Washington, DC, June 9, 2006.

Mr. MARION BOWMAN,
Senior Counsel, Office of General Counsel, FBI Headquarters, Washington, DC.

DEAR MR. BOWMAN: I am writing in connection with the nomination of Kenneth Wainstein for the position of Assistant Attorney General for the National Security Division of the Department of Justice. Mr. Wainstein has indicated that you worked for and reported to him during his tenure as FBI General Counsel.

I asked Mr. Wainstein a series of questions concerning a packet of FBI documents (attached) which refer to concerns of FBI personnel at Guantanamo about aggressive interrogation techniques used by the Department of Defense (DoD). In his answers to my questions, Mr. Wainstein repeatedly stated that he could not recall specific information or documents contained in the packet. He also said that it was ''possible'' that you were ''the source'' from which he learned of FBI concerns with DoD interrogation techniques.

To assist me in filling in the gaps in Mr. Wainstein's answers, please answer the following questions:

1. In the packet provided, Document #1C, dated May 30, 2003 and addressed to your attention, summarizes FBI agents' objections in 2002 and 2003 to DoD's use of aggressive interrogation techniques which were ''of questionable effectiveness and subject to uncertain interpretation based on law and regulation.''

A. Do you remember Document # 1 C?

B. Were you aware, from Document # 1 C or otherwise, of FBI agents' concerns regarding military interrogators' use of aggressive interrogation tactics at Guantanamo? If so, when were you first aware of these concerns? Did you bring these concerns to the attention of Mr. Wainstein? If not, why not? If so, what was Mr. Wainstein's response to those concerns?

C. Were you aware of FBI agents' concerns that these techniques were not only ''of questionable effectiveness'' but also ''subject to uncertain interpretation based on law and regulation''? Did you raise these concerns with Mr. Wainstein? If not, why not? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

2. In his answers to my questions, Mr. Wainstein stated that the FBI's Office of General Counsel (FBI OGC) conveyed FBI agents' concerns regarding DoD interrogation techniques to the DoD Office of General Counsel (DoD OGC). Did you participate in discussions with DoD officials, including from the DoD OGC, about FBI agents' concerns regarding DoD interrogation techniques? If so, did you inform Mr. Wainstein about the outcome of these discussions? If not, why not?

3. Document #1C also states that on December 2, 2002, an FBI employee sent several documents to the head of the Behavioral Analysis Unit (BAU) in Quantico, who stated he would forward these documents to you. According to Document #1C, the forwarded documents included: (1) a letter to Guantanamo Commanding General Major General Geoffrey Miller; (2) an Army Legal Brief on Proposed Counter-Resistance Strategies; and (3) a Legal Analysis of Interrogation Techniques by an FBI agent whose name is redacted. In his answers to my questions, Mr. Wainstein could not recall seeing any of the documents specified in Document #1C, though he said ''it is certainly possible'' that you raised the documents with him.

A. Did you receive and examine documents related to interrogation techniques at Guantanamo in late 2002, including any of the three documents specified in Document #1C? If so, when? Did you bring these documents to the attention of Mr. Wainstein? If not, why not? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

B. If you examined the document described in Document #1C as an Army Legal Brief on Proposed Counter-Resistance Strategies, did you discuss the legal analysis contained in that document with Mr. Wainstein? If not, why not? If so, did either Mr. Wainstein or you have any concerns about that legal analysis?

4. Also contained in the packet I provided Mr. Wainstein were a number of other documents in which you were also named:

Document #2, entitled ''Legal Analysis of Interrogation Techniques,'' indicates that it was forwarded to you on November 27, 2002.

Document #2A, dated December 2,2002, entitled ''Legal Issues,'' requests that a ''Legal Issues Doc'' be forwarded to you or an appropriate person. Document #2B, dated December 3, 2002, is an email from you and is entitled ''Fwd Re Legal Issues Re GTMO.''

Document #2C, dated December 9, 2002, states that it includes a number of documents which may be ''of interest'' to you and states that you are ''reviewing legal aspects of interviews'' at Guantanamo. That same email describes one of the attachments as a ''review of interrogation methods by a DoD lawyer.''

Document #2E, another email from you, dated December 17, 2002, is entitled ''Fwd Legal Issues re Guantanamo Bay.''

A. Do you know the name of the author of the ''Legal Analysis'' document (Document #2)? If so, please provide the name.

B. Did you at any time discuss the analysis contained in the ''Legal Analysis'' document (Document #2) with Mr. Wainstein? If not, why not? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

C. The ''Legal Analysis'' document (Document #2) describes one ''Category IV'' interrogation technique as ''Detainee will be sent off [Guantanamo], either temporarily or permanently, to Jordan, Egypt, or another third country to allow those countries to employ interrogation techniques that will enable them to obtain the requisite information.'' This would appear to suggest the use of rendition as an interrogation technique. Did you at any time discuss the issue of rendition with Mr. Wainstein? If not, why not? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

Did you or any attorney in the FBI OGC conduct a review the legal aspects of interrogation techniques at Guantanamo? If not, why not? Did you or any other person in your presence discuss this review with Mr. Wainstein? If so, are you aware of whether he took any actions or directed you to take any actions as a result?

In addition, please provide unredacted copies of the documents in the attached packet for which you were the sender, a recipient, or in which you were specifically named.

Thank you for your prompt responses to these questions.

Sincerely,

CARL LEVIN.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, July 21, 2006.

Mr. MARION BOWMAN,
Senior Counsel, Office of General Counsel, FBI Headquarters, Washington, DC.

DEAR MR. BOWMAN: Thank you for your response to my letter of June 9, 2006. On June 29, 2006, I provided your response to Mr. Kenneth Wainstein and asked him some additional questions regarding FBI personnel's concerns over DoD interrogation techniques at Guantanamo. Mr. Wainstein responded to me on July 14, 2006. A number of issues, however, require further clarification.

Please provide answers to the following:

1. In Mr. Wainstein's responses of July 14, 2006, he states that he discussed concerns about detainee interrogations with Director Mueller ''at some point in 2002 or 2003.'' Further he states that ''The Director had made a policy decision to prohibit FBI personnel from participating in interrogation sessions in which non-FBI personnel were employing techniques that did not comport with FBI guidelines.''

A. In your response to my questions, you describe a telephone call you received from Behavioral Analysis Unit (BAU) personnel in late 2002 regarding their concerns about interrogation practices at Guantanamo. Did you discuss these concerns with Director Mueller in late 2002? If so, what was the nature of those discussions? Was Mr. Wainstein aware of those discussions?

B. When did Director Mueller issue the policy prohibiting the participation of FBI personnel from interrogations involving techniques that did not comport with FBI guidelines? Please provide any documents relating to the issuance of that policy.

2. In your response to Question #1B, you state that you recommended to Mr. Wainstein that your office notify the Department of Defense Office of General Counsel (DoD/OGC) that ''there were concerns about the treatment of detainees in Guantanamo.'' You add that Mr. Wainstein concurred in this suggestion. When did you first contact the DoD/OGC regarding FBI personnel's concerns about the treatment of detainees in Guantanamo? Was it in late 2002? To whom did you communicate these concerns?

3. In your response to Question #3A, you state that you received the ''Legal Issues Doc'' in late 2002 and that, ''Because at that time I was working under the assumption that DoD General Counsel was taking appropriate action with respect to this issue, I did not believe that any particular action was necessary on the part of the FBI.''

A. Did you provide the ''Legal Issues Doc'' to the DoD/OGC? If so, when?

B. Why did you assume at the time you received this document that the DoD/OGC was taking appropriate action? Was this based on your discussions with individuals in the DoD/OGC? If so, what was the nature of those discussions?

4. In your response to Question #3B, you state that you provided the attachments to Document #1C, including the Army Legal Brief on Proposed Counter-Resistance Strategies, to the Defense Humint Services Deputy General Counsel. Please provide the name of the individual in that office to whom you provided these documents. When did you do so?

5. In your response to Question #4A, you state that you don't know who authored the document entitled ''Legal Analysis of Interrogation Techniques,'' but that ''my understanding is that the document was not drafted by an FBI agent. Rather, an FBI agent copied it and forwarded it [to] FBI Headquarters.''

A. What is the basis for your understanding that this document was not authored by an FBI agent?

B. What is your understanding of the source from which the agent copied the contents of the document?

In addition, I remind you that my June 9, 2006, letter included a request for ''unredacted copies of the documents in the attached packet for which you were the sender, recipient, or in which you were specifically named.'' This request is still outstanding.

Thank you for your prompt response.

Sincerely,

CARL LEVIN.

JUNE 19, 2006.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: This is in response to your letter dated June 9, 2006, requesting additional information regarding my nomination to be the first Assistant Attorney General for National Security. Below are the answers to your specific questions.

Answer to Question 1: I do not have unredacted copies of any of the documents you provided me at our meeting on May 15, 2006. I am aware that you have made similar inquiry to Director Mueller, and I have alerted the Department of Justice, Office of Legislative Affairs, of your request.

Answer to Question 2: I understand that Marion ''Spike'' Bowman conveyed concerns to the DoD General Counsel's Office about DoD interrogation techniques at some point. I do not know to whom Mr. Bowman spoke, how often, or the date of any communications.

Answer to Questions 3 A), B), C), D) and E): As I have previously indicated, I do not recall having seen the document marked as #2, or the various emails marked #2A, #2B, #2C, #2D or #2E; nor do I recall having specific conversations about them with Mr. Bowman or any other FBI Office of General Counsel (OGC) lawyer. I do not recall ever hearing that Mr. Bowman or any other OGC lawyer was undertaking any formal legal review or legal analysis of interrogation techniques employed by another agency. I did not produce any formal legal opinion or OGC legal memorandum on this topic while I was General Counsel.

As I previously explained, I was aware—and there was wide awareness within the FBI—that FBI personnel stationed at Guantanamo disagreed with the aggressive techniques that were authorized to be used there and believed they were not effective at soliciting useful information that could be used in subsequent prosecutions. As I saw In response to the first set of questions (Question 1, subpart Fiii), it is certainly possible that Mr. Bowman or other OGC attorneys were among those from whom I heard about those concerns.

Answer to Question 3F): I do not know who authored the document labeled #2.

Answer to Question 4: I do not have the results of the survey conducted after the Director's May 20, 2004 hearing. I left the FBI on May 29, 2004, to become the interim United States Attorney for the District of Columbia. As I indicated in my previous responses to your first set of post-hearing questions, I do not know anything about the results of the survey beyond the information publicly disclosed by Director Mueller that I cited in my previous responses.

Answer to Question 5: I do not know whether the FBI raised any such concern with the NSA.

Answer to Question 6: My view that it would be inappropriate for me to comment about discussions with Director Mueller is based upon the confidentiality interests that are implicated by my role as his chief of staff and FBI General Counsel. I have been advised that this is consistent with longstanding executive branch concerns that disclosure of such communications would chill the provision of candid, frank advice to senior officials, such as Director Mueller, which is important to their effective, fully-informed decision-making.

I have made every effort, however, to respond to committee requests for information relating to my fitness for the position of Assistant Attorney General. I have met with individual Senators and remain available for further meetings with any Senator who would like to speak with me. I also have responded to multiple rounds of pre- and post-hearing questions, in addition to my appearances before the two separate committees of the Senate relating to my nomination. I have been happy to provide this information, and I remain ready and willing to provide information relevant to the Senate's consideration of my fitness and ability to fulfill the responsibilities of the Assistant Attorney General for National Security.

Thank you for the opportunity to provide this additional information regarding my previous responses, and I look forward to the Committee's consideration of my nomination.

Sincerely,

KENNETH L. WAINSTEIN.

JULY 14, 2006.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: Thank you for the questions in your June 29, 2006, letter, and for your questioning throughout this confirmation process. I have carefully reviewed your questions, and I have drafted my responses based on my review of the written responses from Mr. Bowman and the Federal Bureau of Investigation (FBI) e-mails and memos that you provided me.

I. CONCERNS REGARDING INTERROGATIONS AT GUANTANAMO

The first of your two questions relates to concerns about the interrogation techniques that Department of Defense (DOD) personnel were using with detainees in Guantanamo. I appreciate your concern about the treatment of detainees. As a criminal prosecutor for most of the past seventeen years, I have frequently been questioned about the treatment and interrogation of suspects, defendants and prisoners in my prosecutions. I have litigated suppression motions in numerous homicide and other criminal cases where I had the burden of demonstrating that a confession was procured under conditions and circumstances that passed constitutional muster. I have always considered this scrutiny to be a part of my job, and I recognize the government's fundamental obligations toward those it holds in custody.

As I explained in previous responses, it was fairly well known during my tenure at the FBI that some FBI personnel were concerned about the DOD's use of aggressive interrogation techniques in Guantanamo. There was a sentiment that DOD's techniques were not effective in eliciting useful information and that DOD should instead use the rapport-building approach that is routinely practiced by the FBI and law enforcement in general. There also was a concern that DOD's techniques could complicate the introduction of subsequent admissions by detainees in any potential future criminal prosecutions.

Your letter inquires about the concerns regarding DOD interrogations that were communicated to former Deputy General Counsel Marion Bowman in late 2002 an early 2003. During this time period, I recall hearing about the concerns described in the previous paragraph. However, as I have previously explained, I do not recall hearing any reports of torture or illegal conduct, and it was my understanding at that time—and remains my understanding today—that the techniques of concern to FBI personnel had been authorized by the Department of Defense.

Although I heard concerns about the DOD interrogation techniques during that time period, I do not recall hearing them specifically from Mr. Bowman. As I indicated in previous responses, it is entirely possible that he and I discussed the issue, but there is nothing about any such conversation(s) that sets it apart in my memory. Similarly, while Mr. Bowman believes he would have spoken to me about some of the concerns he was hearing, his written responses indicate that he also cannot recall any specific conversations. Moreover, he makes clear that any conversations we might have had on this topic would have been simply advisory in nature in that he believed the concerns were being addressed by DOD and that they required no FBI action beyond his contacting the DOD General Counsel's Office.

Your letter asks whether I informed Department of Justice officials or Director Mueller regarding any concerns I heard about Guantanamo interrogations or directed others to so inform them. While I do not recall discussing concerns about detainee interrogations with an one in Main Justice—or directing anyone else to do so—I do recall orally discussing detainee interrogations with Director Mueller at some point in 2002 or 2003. The Director had made a policy decision to prohibit FBI personnel from participating in interrogation sessions in which non-FBI personnel were employing techniques that did not comport with FBI guidelines. The Director—described his reasons for

this policy in his response to Questions for the Record after his April 5, 2005, testimony before the Judiciary Committee (which are summarized in my June 5, 2006, responses to your questions for the record on pages 2–3). When this issue came up from time to time during my service at the FBI, the Director and I discussed FBI concerns about aggressive interrogation techniques and he maintained a bright-line rule barring FBI personnel from involvement in interviews that employed techniques inconsistent with FBI guidelines.

II. CONVERSATIONS ABOUT THE TERRORIST SURVEILLANCE PROGRAM I

Your second question asks whether I am asserting any privilege in declining to describe any conversations I had with Director Mueller regarding the legal rationale for the Terrorist Surveillance Program. The short answer is that I am not invoking a privilege; rather, my response comports with the longstanding Executive Branch practice of protections the dentiality of internal advice and other deliberatlons. It is my understanding that this practice is based largely on the importance of ensuring that policy makers receive the complete, sometimes differing, views of subordinates as they consider significant issues. If employees have to worry that their deliberations will be disclosed outside of the agency; then they will become reluctant to provide their candid input and the decision making process will suffer.

III. CONCLUSION

I trust that this letter responds to your questions. It has been my objective throughout this process to be as candid and forthcoming as possible, and to assure you that I am worthy of your confidence to handle the important national security responsibilities of the position for which I have been nominated. With the establishment of the National Security Division awaiting my confirmation, I am anxious for you to allow my nomination to proceed to a vote before the United States Senate. There is much work to be done to stand up the new Division.

Please let me know if you have any further questions, as I would be happy to meet with you at your convenience to respond to them. Thank you once again for your consideration throughout this process.

Sincerely,

KENNETH L. WAINSTEIN.

U.S. SENATE,
Washington, DC, June 29, 2006.

Mr. KENNETH WAINSTEIN.
Washington, DC.

Dear MR. WAINSTEIN: I have reviewed your June 19th reply and Mr. Marion Bowman's June 27th reply to my June 9th letters and would appreciate your responses to he following questions.

Mr. Bowman's response, a copy of which is enclosed, states that he is confident that he spoke with you about a call he received from FBI Behavioral Analysis Unit (BAU) personnel in fall 2002 expressing concern with certain Department of Defense (DoD) interrogation tactics in use at Guantanamo. In addition, Mr. Bowman's response states that, approximately one month after BAU personnel contacted him with their concerns, he was informed about ''legal concerns'' that DoD personnel had with the tactics. Mr. Bowman states that he believes that he would have discussed these legal concerns with you. Mr. Bowman also states that he believes that he showed you or discussced with you the ''Legal Analysis of Interrogation Techniques'' document referenced in document #1 C. That document refers to examples of coercive interrogation tchniques which may violate 18 U.S.C. s. 2340 (Torture Statute).''

Please advise whether, at any time, you informed or directed others to inform Director Mueller and/or any Department of Justice (DOJ) official, including but not limietd to officials in the Attorney General's office, DOJ's Office of Legal Counsel, or DOJ Criminal Division of concerns about DoD interrogation tactics that had been brought to your office, regardless of the source of those concerns. If so, please provide the name of the official(s) you contacted or who were contacted at your direction. If concerns were communicated in writing, please provide a copy; if orally, please describe the substance of the conversation. If you did not contact any such official(s) or direct others to do so, please advise me as to why you did not.

You also state in your letter that ''the confidentiality interests that are implicated by my role as his chief of staff and FBI General Counsel'' preclude you from answering my questions regarding your conversations with Director Mueller on the legal rationale for warrantless wiretaps.

Please advise as to whether you are asserting any privilege in declining to describe those discussions and provide the legal basis for that privilege and your assertion of it.

Finally, following my staffs discussion with the Department of Justice, I will provide the Department with a list of documents from the previously provided packet that I request be provided in unredacted form.

I look forward to your reply.

Sincerely,

CARL LEVIN.

AUGUST 7, 2006.

Hon. CARL LEVIN,
U.S. Senate, Committee on Armed Services, Washington, DC.

SENATOR LEVIN: You sent me a second set of questions with respect to Mr. Kenneth Wainstein, which I received on Friday, August 4, 2006. Your focus, once again, is ''detainee'' issues. Let me preface my reply by informing you that I no longer work for the Department of Justice. In consequence, I have no access to any of the documents that you reference and, because of a computer change in recent years, did not have personal access to them when I last replied. Additionally, because I no longer work for the Department of Justice, my answers to your questions should not imply concurrence by the Department of Justice or the Federal Bureau of Investigation in any of my responses.

You asked:

1. In Mr. Wainstein's responses of July 14, 2006, he states that he discussed concerns about detainee interrogations with Director Mueller ''at some point in 2002 or 2003.'' Further he states that ''The Director had made a policy decision to prohibit FBI personnel from participating in interrogation sessions in which non-FBI personnel were employing techniques that did not comport with FBI guidelines.''

A. In your response to my questions, you describe a telephone call you received from Behavioral Analysis Unit (BAU) personnel in late 2002 regarding their concerns about interrogation practices at Guantanamo. Did you discuss these concerns with Director Mueller in late 2002? If so, what was the nature of those discussions? Was Mr. Wainstein aware of those discussions?

Answer: To the best of my recollection, I never discussed detainee issues with Director Mueller.

B. When did Director Mueller issue the policy prohibiting the participation of FBI personnel from interrogations involving techniques that did not comport with FBI guidelines? Please provide any documents relating to the issuance of that policy.

Answer: I do not recall when Director Mueller issued that policy. However, I can tell you that the operational prohibition came earlier. As soon as I heard from BAU I talked with (now retired) Executive Assistant Director Pat D'Amuro who immediately said we (the FBI) would not be a party to actions of any kind that were contrary to FBI policy and that individuals should distance themselves from any such actions. That conversation was longer than indicated so I want to be sure the ''sound bite'' is not misinterpreted. EAD D'Amuro was not saying that FBI would ignore anything unlawful. He made it abundantly clear that FBI would adhere to its standards and, to the extent possible, would not put itself in a position that would create even the appearance that those standards had been compromised by physical association with activities inconsistent with the tenets of the Bureau.

Answer: You will have to seek any documents from the Department of Justice as I no longer have access to any of them.

2. In your response to Question #1B, you state that you recommended to Mr. Wainstein that your office notify the Department of Defense Office of General Counsel (DoD/OGC) that ''there were concerns about the treatment of detainees in Guantanamo.'' You add that Mr. Wainstein concurred in this suggestion. When did you first contact the DoD/OGC regarding FBI personnel's concerns about the treatment of detainees in Guantanamo? Was it in late 2002? To whom did you communicate these concerns?

Answer: I cannot be precise. My best guess, which is probably pretty accurate, is that it was mid- to late November of 2002. I first called the acting Deputy General Counsel for Intelligence. Subsequently I talked with the Principal Deputy General Counsel and the General Counsel. My best recollection is that I talked briefly with the Principal Deputy shortly thereafter and with both Principal Deputy General Counsel and the General Counsel several months later. I'm sorry; I can't be more precise than that.

3. In your response to question #3A, you state that you received the ''Legal Issues Doc'' in late 2002 and that, ''Because at that time I was working under the assumption that DoD General Counsel was taking appropriate action with respect to this issue, I did not believe that any particular action was necessary on the part of the FBI.''

A. Did you provide the ''Legal Issues Doc'' to the DoD/OGC? If so when?

Answer: I offered the documents to the General Counsel's office and described generally the contents of the documents included in the bundle that was forwarded to me by BAU, but was told that they believed they already had all the documents I possessed.

C. Why did you assume at the time you received this document that the DoD/OGC was taking appropriate action? Was this based on your discussions with individuals in the DoD/OGC? If so, what was the nature of those discussions?

Answer: This could be a very lengthy response, but the short version is that, based on my experiences as a 27–year veteran of military service, a substantial portion of which dealt both with issues of the Law of Armed Conflict and, for a variety of reasons, directly with the DoD General Counsel's office (through multiple General Counsels), I believed bringing the issue to the attention of appropriate authority would result in any remedial action deemed necessary or appropriate. When I talked with the acting Deputy General Counsel for Intelligence, a person whom I knew well, I was told that the matter was not in his purview, but that it was being handled by the Principal Deputy. That made perfect sense to me, as the acting Deputy General Counsel for Intelligence had no military experience, while the Principal Deputy was retired military.

4. In your response to Question #3B, you state that you provided the attachments to Document #1C, including the Army Legal Brief on Proposed Counter-Resistance Strategies, to the Defense Humint Service's Deputy General Counsel. Please provide the name of the individual in that office to whom you provided these documents. When did you do so?

Answer: The Deputy General Counsel for Defense Humint Services is retired Colonel James Schmidli. My best guess on timing was in the mid-December 2002 to mid-January 2003 time frame. I did not give copies to Mr. Schmidli, but he did read them in my office.

5. In your response to Question #4A, you state that you don't know who authored the document entitled ''Legal Analysis of Interrogation Techniques'' but that ''my understanding is that the document was not drafted by an FBI agent. Rather, an FBI agent copied it and forwarded it [to] FBI Headquarters.

A. What is the basis for your understanding that this document was not authored by an FBI agent?

Answer: To the best of my recollection, this is what I was told when the documents were forwarded to me.

B. What is your understanding of the source from which the agent copied the contents of the document?

Answer: I have no present recollection of that.

In closing, I will remind you that any documents you desire will have to be requested from the Department of Justice. I hope this is helpful to your understanding that this period was one in which facts were still uncertain but reasonably believed to be in the hands of the Department of Defense for any actions necessary. In that respect, it is my firm belief that Mr. Wainstein acted with complete propriety throughout.

Respectfully,

M.E. BOWMAN,
CAPT, JAGC, USN (ret.).

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that at 5:20 on Monday, September 25, the Senate proceed to executive session for the consideration of the following judicial nomination on the executive calendar; No. 920, Francisco Besosa to be a United States District Judge for the District of Puerto Rico; provided further that the time until 5:30 be equally divided between the chairman and ranking member of the Judiciary Committee or their designee; provided further that at 5:30 the Senate proceed to a vote on the nomination, with no intervening action or debate; that following the vote the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

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

MEASURE DISCHARGED AND REFERRED—H.R. 2965

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 2965 and that the bill be referred to the Committee on the Judiciary.

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

MEASURE READ THE FIRST TIME—S. 3925

Mr. FRIST. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 3925) to provide certain authorities for the Secretary of State and the Broadcasting Board of Governors, and for other purposes.

Mr. FRIST. Mr. President, I now ask for a second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will be read for the second time on the next legislative day.

MEASURE PLACED ON THE CALENDAR—H.R. 503

Mr. FRIST. Mr. President, I understand there is a bill at the desk due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the second time.

The legislative clerk read as follows:

A bill (H.R. 503), to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

Mr. FRIST. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard.

Without objection, the bill will be placed on the calendar.

DESIGNATING DECEMBER 13, 2006, AS A POLISH DAY OF REMEMBRANCE

Mr. FRIST. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 579, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 579) designating December 13, 2006 as a Day of Remembrance to honor the 25th anniversary of the imposition of martial law by the Communist government in Poland.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed, to the preamble be agreed to, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

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

The resolution (S. Res. 579) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 579

Whereas, on May 9, 1945, Europe declared victory over the oppression of the Nazi regime;

Whereas Poland and other countries in Central, Eastern, and Southern Europe soon fell under the oppressive control of the Soviet Union;

Whereas for decades the people of Poland struggled heroicly for freedom and democracy against that oppression, paying at times the ultimate sacrifice;

Whereas, in 1980, the Solidarity Trade Union was formed in Poland;

Whereas membership in the Solidarity Trade Union grew rapidly in size to 10,000,000 members, and the Union obtained unprecedented moral power that soon threatened the Communist government in Poland;

Whereas, on December 13, 1981, the Communist government in Poland crushed the Solidarity Trade Union, imprisoned the leaders of the Union, and imposed martial law on Poland;

Whereas, through his profound influence, Pope John Paul II gave the people of Poland the hope and strength to bear the torch of freedom that eventually lit up all of Europe;

Whereas the support of the Polish-American community while martial law was imposed on Poland was essential in encouraging the people of Poland to continue to struggle for liberty;

Whereas the people of the United States were greatly supportive of the efforts of the people of Poland to rid themselves of an oppressive government;

Whereas the people of the United States expressed their support on Christmas Eve 1981 by lighting candles in their homes to show solidarity with the people of Poland who were suffering under martial law;

Whereas, in 1989, the people of Poland finally won the right to hold free parliamentary elections, which led to the election of Poland's first Prime Minister during the post-war era who was not a member of the Communist party, Mr. Tadeusz Mazowiecki; and

Whereas, in 2006, Poland is an important member of the European Union, one of the closest allies of the United States, a contributing partner in the North Atlantic Treaty Organisation, and a reliable partner in the war on terrorism that maintains an active and crucial presence in Iraq and Afghanistan: Now, therefore, be it

Resolved, That the Senate—

(1) designates December 13, 2006, the 25th anniversary of the imposition of martial law by the Communist government in Poland, as a Day of Remembrance honoring the sacrifices paid by the people of Poland during the struggle against Communist rule;

(2) honors the people of Poland who risked their lives to restore liberty in Poland and to return Poland to the democratic community of nations; and

(3) calls on the people of the United States to remember that the struggle of the people of Poland greatly contributed to the fall of

Communism and the ultimate end of the Cold War.

NATIONAL POLLINATOR WEEK

Mr. FRIST. I ask unanimous consent the Senate now proceed to consideration of S. Res. 580, 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. 580) recognizing the importance of pollinators to ecosystem health and agriculture in the United States and the value of partnership efforts to increase awareness about pollinators and support for protecting and sustaining pollinators by designating June 24 through June 30, 2007, as ''National Pollinator Week.''

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, and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 580) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 580

Whereas bees, butterflies, and other pollinator species have a critically important role in agriculture in the United States and help to produce a healthy and affordable food supply and sustain ecosystem health;

Whereas pollinators help to produce an estimated 1 out of every 3 bites of food consumed in the United States and to reproduce at least 80 percent of flowering plants;

Whereas commodities produced in partnership with animal pollinators generate significant income for agricultural producers, with domestic honeybees alone pollinating an estimated $14,600,000,000 worth of crops in the United States each year produced on more than 2,000,000 acres;

Whereas it is in the strong economic interest of agricultural producers and consumers in the United States to help ensure a healthy, sustainable pollinator population;

Whereas possible declines in the health and population of pollinators pose what could be a significant threat to global food webs, the integrity of biodiversity, and human health;

Whereas the North American Pollinator Protection Campaign, managed by the Coevolution Institute, is a tri-national, cooperative conservation, public-private collaboration of individuals from nearly 140 diverse stakeholder groups, including concerned landowners and managers, conservation and environmental groups, scientists, private businesses, and government agencies; and

Whereas the Pollinator Partnership™ web site (http://www.pollinator.org) has been created as the source for pollinator information: Now, therefore, be it

Resolved,

SECTION 1. DESIGNATION OF NORTH AMERICAN POLLINATOR APPRECIATION WEEK.

The Senate—

(1) recognizes the partnership role that pollinators play in agriculture and healthy ecosystems;

(2) applauds the cooperative conservation collaborative efforts of participants in the North American Pollinator Protection Campaign to increase awareness about the important role of pollinators and to build support for protecting and sustaining pollinators;

(3) designates June 24 through 30, 2007, as ''National Pollinator Week''; and

(4) encourages the people of the United States to observe the week with appropriate ceremonies and activities.

SUPPORTING THE GOALS AND IDEALS OF NATIONAL EPIDERMOLYSIS BULLOSA AWARENESS WEEK

Mr. FRIST. I ask unanimous consent the HELP Committee be discharged from further consideration of S. Res. 180, and the Senate now proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 180) supporting the goals and ideals of a National Epidermolysis Bullosa Awareness Week to raise public awareness and understanding of the disease and to foster understanding of the impact of the disease on patients and their families.

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, and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 180) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 180

Whereas epidermolysis bullosa is a rare disease characterized by the presence of extremely fragile skin that results in the development of recurrent, painful blisters, open sores, and in some forms of the disease, in disfiguring scars, disabling musculoskeletal deformities, and internal blistering;

Whereas approximately 12,500 individuals in the United States are affected by the disease;

Whereas data from the National Epidermolysis Bullosa Registry indicates that of every 1,000,000 live births, 20 infants are born with the disease;

Whereas there currently is no cure for the disease;

Whereas children with the disease require almost around-the-clock care;

Whereas approximately 90 percent of individuals with epidermolysis bullosa report experiencing pain on an average day;

Whereas the skin is so fragile for individuals with the disease that even minor rubbing and day-to-day activity may cause blistering, including from activities such as writing, eating, walking, and from the seams on their clothes;

Whereas most individuals with the disease have inherited the disease through genes they receive from one or both parents;

Whereas epidermolysis bullosa is so rare that many health care practitioners have never heard of it or seen a patient with it;

Whereas individuals with epidermolysis bullosa often feel isolated because of the lack of knowledge in the Nation about the disease and the impact that it has on the body;

Whereas more funds should be dedicated toward research to develop treatments and eventually a cure for the disease; and

Whereas the last week of October would be an appropriate time to recognize National Epidermolysis Bullosa Week in order to raise public awareness about the prevalence of epidermolysis bullosa, the impact it has on families, and the need for additional research into a cure for the disease: Now, therefore, be it

Resolved, That the Senate—

(1) supports the goals and ideals of a National Epidermolysis Bullosa Awareness Week to raise public awareness and understanding of epidermolysis bullosa;

(2) recognizes the need for a cure for the disease; and

(3) encourages the people of the United States and interested groups to support the week through appropriate ceremonies and activities to promote public awareness of epidermolysis bullosa and to foster understanding of the impact of the disease on patients and their families.

CONGRATULATING THE KANSAS STATE UNIVERSITY DEPARTMENT OF AGRONOMY IN THE COLLEGE OF AGRICULTURE

Mr. FRIST. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged from further consideration, and the Senate proceed to the consideration of S. Res. 539.

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

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 539) congratulating the Department of Agronomy in the College of Agriculture at Kansas State University for 100 years of excellent service to Kansas agriculture.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent 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. 539) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 539

Whereas, in 2006, the Department of Agronomy in the College of Agriculture at Kansas State University in Manhattan, Kansas, celebrates its centennial year;

Whereas Kansas State Agricultural College was established under the Morrill Act as the first land-grant college in the United States in 1863 and, in July 1906, the Kansas Board of Regents established the Department of Agronomy in the College of Agriculture at the Kansas State Agricultural College;

Whereas, since its inception, the Department of Agronomy has exemplified the land-grant mission by providing statewide leadership in teaching, research, and extension programs in crop breeding, crop production, range science, soil science, and weed science;

Whereas advances in sciences studied at the Department of Agronomy have had a major impact in insuring the profitability of Kansas agriculture while sustaining the natural resources and improving the livelihood of all Kansans;

Whereas the faculty in the Department of Agronomy also have made significant international contributions to world food production and natural resources sustainability, including participation and leadership in long-term projects in India, the Philippines, Nigeria, Morocco, and Botswana;

Whereas the faculty in the Department of Agronomy have distinguished themselves by receiving numerous university and national awards in teaching, research, and extension and provided service and leadership for national and international professional societies;

Whereas the faculty in the Department of Agronomy have conducted research for sustainable, efficient crop and range production systems that conserve natural resources and protect environmental quality;

Whereas, today, a majority of the acres of wheat and a significant number of acres of alfalfa, soybean, and canola in Kansas are planted with varieties developed in the Department of Agronomy;

Whereas the Department of Agronomy extension specialists have provided information to producers and industry regarding soil fertility, conservation of soil and water resources, tillage and production systems, evaluation of crop varieties and hybrids, and protection of the environment, thus, keeping Kansas agriculture efficient and competitive;

Whereas the Department of Agronomy faculty have prepared students in agronomy to effectively serve agriculture and society by feeding the world and protecting soil and water resources;

Whereas the alumni of the Department of Agronomy have distinguished themselves in the public and private sectors as crop, soil, range, and weed science professionals and have become farmers, extension agents, educators, administrators, consultants, representatives, scientists, missionaries, military officers, contractors, and a host of other professionals; and

Whereas many alumni of the Department of Agronomy have become leaders in their communities, academia, industry, and government, contributing significantly to world agriculture by making hybrid corn a reality, developing seeds for the Green Revolution, developing sorghum into an important crop, breeding ''Miracle Rice'' for Asia, and leading national programs in wheat, barley, oat, and alfalfa: Now, therefore, be it

Resolved, That the Senate congratulates and commends the Department of Agronomy in the College of Agriculture at Kansas State University for 100 years of excellent service to Kansas agriculture, the citizens of Kansas, the United States, and the world.

LIGHTS ON AFTERSCHOOL

Mr. FRIST. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration, and the Senate now proceed to S. Con. Res. 116.

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

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 116) supporting ''Lights On Afterschool,'' a national celebration of after school programs.

There being no objection, the Senate proceeded to consider the concurrent resolution.

LIGHTS ON AFTERSCHOOL

Mrs. BOXER. Mr. President, Today, I ask my colleagues to recognize the 7th Annual Lights on Afterschool events taking place across the country on October 12, 2006. ''Lights on Afterschool is a national celebration in which more than 1 million Americans will gather in their communities to recognize the important role that afterschool programs provide for the children in this country.

Afterschool providers throughout California and across the country have demonstrated that afterschool programs keep children safe, improve learning, and reduce crime and drug use. According to the FBI, youth are most at risk for being victims of violent crimes and committing violent acts between 3 p.m. and 6 p.m.—after school is out and before parents arrive home. Afterschool programs keep children safe, reduce crime and drug use, and improve academic performance.

As we take this occasion to recognize the afterschool program providers, we also must honor the communities that also contribute to the enrichment of these afterschool activities that provide safe and supervised afterschool educational, enrichment, and recreational programs. The partnerships you have forged with the afterschool program providers are instrumental in their success. There is no responsibility greater than ensuring that our children can learn and grow in a safe environment.

Afterschool programs are critical to the success of American families. These programs make it easier for parents to go to work because they know that their children are in a safe and nourishing environment. According to the Afterschool Alliance, 14.3 million children go home to an empty house every day. We must work to ensure these children have access to these programs that are vital to developing cultural and social skills, as well as the academic enrichment that the programs provide.

Afterschool is a wise investment in our children's future. That is why I will continue to work to make after school a national priority—so that we can bring Federal resources to support great local programs to keep the lights on and the doors open.

I send my sincere thanks to everyone working in programs and schools involved with Lights on Afterschool and for all of the work you have done and continue to do in creating partnerships that promote and enhance afterschool programs.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent 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 concurrent resolution (S. Con. Res. 116) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 116

Whereas high quality after school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high quality after school programs support working families by ensuring that the children in such families are safe and productive after the regular school day ends;

Whereas high quality after school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's youth, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high quality after school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas ''Lights On Afterschool!'', a national celebration of after school programs held on October 12, 2006, promotes the critical importance of high quality after school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home and 14,300,000 children in the United States have no place to go after school; and

Whereas many after school programs across the United States are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports the goals and ideals of ''Lights On Afterschool!'' a national celebration of after school programs.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2006

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 539, S. 2562.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2562) to increase, effective as of December 1, 2006, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

There being no objection, the Senate proceeded to consider the bill.

(At the request of Mr. REID, the following statment was ordered to be printed in the RECORD.)

Mr. AKAKA. Mr. President, as ranking member of the Senate Committee on Veterans' Affairs, I am extremely pleased with Senate passage of legislation that will authorize a cost-of-living adjustment for veterans' compensation.

The Veterans' Compensation Cost-of-Living Adjustment Act of 2006, S. 2562, directs the Secretary of Veterans Affairs to increase, as of December 1, 2006, the rates of veterans' disability compensation, dependency and indemnity compensation for surviving spouses and children, and certain related benefits.

The COLA will be the same as the increase provided to Social Security recipients, which is projected to be approximately 2.9 percent.

It is vital that veterans' disability compensation rates keep pace with the increasing cost of living. Without an increase to offset the effects of inflation, veterans and their families would lose the value of this important benefit.

Passage of the Veterans' Compensation Cost-of-Living Adjustment Act of 2006 is the least that Congress can do to help disabled veterans provide adequately for their families. Many times, VA disability compensation is a major, and in some cases the sole, source of income for a veteran and his or her family. For those who gave so much to this nation, we owe them this sign of gratitude.

In closing, I thank all of my colleagues for their support for our Nation's veterans. I anticipate swift passage of this important legislation by the House of Representatives.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5034) was agreed to, as follows:

(Purpose: To make a technical correction to title 38, United States Code)

On page 4, after line 8, add the following:

SEC. 4. TECHNICAL AMENDMENT.

Section 1311 of title 38, United States Code, is amended by redesignating the second subsection (e) (as added by section 301(a) of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3610)) as subsection (f).

The bill (S. 2562), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans' Compensation Cost-of-Living Adjustment Act of 2006''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—Effective on December 1, 2006, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2006, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—

(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2006, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased under that section, not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2007.

SEC. 4. TECHNICAL AMENDMENT.

Section 1311 of title 38, United States Code, is amended by redesignating the second subsection (e) (as added by section 301(a) of the Veterans Benefits Improvement Act of 2004 (Public Law 108–454; 118 Stat. 3610)) as subsection (f).

DETAINEE INTERROGATION AGREEMENT

Mr. FRIST. Mr. President, in a few moments we will be closing. I will have a brief closing statement about what the plans will be over the next several days.

While we have a moment, I will refer to what happened about an hour or an hour and a half ago on a very important piece of legislation we have been working on for about 2 months, almost 3 months now. It is legislation which results from what we all know now as the Hamdan decision that the Supreme Court presented to us specifically several months ago. As a result of that decision, it became incumbent to pass legislation in this Senate to clarify the results of that decision but, most importantly, to address the issues surrounding the military tribunals, the terrorist tribunals, the military commissions. Those are, in essence, the court system, the commissions, the way we deal with enemy combatants or terrorists.

The issue before the Senate is legislation that we must pass this coming week just as soon as possible for a number of reasons, but primarily we have detainees at Guantanamo Bay, Cuba, who cannot be tried. Among these terrorists are people such as the lead Shaikh Mohammed, the mastermind, or alleged mastermind, behind the events of September 11.

In addition, what we all now understand is the Hamdan decision made it again incumbent upon the Senate to act in order to be able to continue a very important program of interrogation so we can get information so our Government will be equipped with the tools we need to obtain information from terrorists that can be lifesaving, that can prevent another attack, a terrorist attack.

What has been challenging over the last several months is coming to an agreement which we reached today among colleagues who had devoted a lot of time in this Senate on this issue, an issue which is tough from a legal standpoint, but an agreement within this Senate, working hand in hand with the administration. I was pleased to join my colleagues, along with the National Security Adviser, Steve Hadley, along with a Member from the House of Representatives, as well as MITCH MCCONNELL, our whip, as well as JOHN WARNER, chairman of the Committee on Armed Services, Senator JOHN MCCAIN, and Senator GRAHAM, to announce an agreement that meets the key test of our conference.

The first priority, as I have spoken again and again over the last several days, was the importance of meeting these goals. And they were met.

No. 1, protect America by ensuring our highly valuable CIA program will be preserved, a program of interrogation which has delivered information that has allowed the United States to stop terrorist activity. That will be preserved.

The second goal, a criterion that I have set out and the President has set out as well, is whatever we develop in this Senate must guarantee that classified sources and methods, classified information—all sources and methods will not be disclosed to the terrorist detainees. It seems obvious to the American people, obvious to me, that we do not want to be giving classified information to a terrorist or his attorney, who will turn around and share that with the larger terrorist world that is out there.

A third criteria or a third result of the fact that this legislation has been addressed in the way it has is an agreement that has the impact of ensuring that the military will be able to begin to try the terrorists, the enemy combatants, the detainees in our custody today.

So it protects a program which we know is important, No. 1. No. 2, it prevents classified information from being given to terrorists. No. 3, it ensures that the military can begin to try these terrorists once this legislation is signed by the President.

I congratulate my colleagues. We have a long way to go, though, because

that is the first major step of a product of about 2 months of work. With that work and the time they have spent, the dedication and focus, it means that once that information can be shared with Democrats and Republicans throughout the Senate and they take a look at it, the fact that it has been so carefully vetted, we should be able to address it in the course of next week.

I had a brief conversation with the Democratic leader, who has begun to look at that legislation. He, too, is confident we can address this issue next week. The House of Representatives has to address it, as well, go to conference—if we don't pass the same bill—and then get it to the President as soon as we possibly can. So it is very good news. That agreement was reached today.

There are a number of other items that have to be addressed, but there were three major items that were the real gist, the substance of that agreement.

DARFUR PEACE AND ACCOUNTABILITY ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of H.R. 3127 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3127) to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the Lugar substitute at the desk be agreed to, the bill as amended be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to the measure be printed in the appropriate place in the RECORD as if read.

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

The amendment (No. 5033), in the nature of a substitute, was agreed to.

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

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 3127), as amended, was read the third time and passed.

Mr. FRIST. Mr. President, I have several other issues to deal with, but that particular issue on Sudan and sanctions surrounding Sudan leads me to comment on the great tragedy that is occurring in the Darfur region in western Sudan.

I have had the opportunity to be in that region in a number of the refugee camps along that western border of Sudan and Chad, the country just west of Sudan, a country to which many of these refugees are fleeing.

Things are getting worse in Darfur. We have heard a lot about it in the last 2½ years. On this floor, a little over 2 years ago, we called it a genocide. Shortly thereafter, the administration also agreed it is genocide. And that is exactly what it is. We do not know exactly how many people have been killed, but around 200,000 people have been killed in this genocide and probably 2 million people displaced from their homes. Things are getting worse. It deserves the attention of this body. We focused on it at a very early time. We continue to focus on it, but again, I think we are going to have to focus on it more and more.

An envoy was appointed by the President maybe yesterday or the day before. I think that is a very positive move in that regard.

RECOGNIZING THE 75TH ANNIVERSARY OF THE NORTH CAROLINA FARM BUREAU FEDERATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of and the Senate now proceed to S. Res. 574.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 574) recognizing the North Carolina Farm Bureau Federation on the occasion of its 70th anniversary and saluting the outstanding service of its members and staff on behalf of the agricultural community and the people of North Carolina.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 574) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 574

Whereas the North Carolina Farm Bureau Federation was founded on March 2, 1936, in Greenville, North Carolina, during the Great Depression, a period of national frustration and economic disaster;

Whereas the North Carolina Farm Bureau Federation was established to organize North Carolina's farm families and to maximize their ability to engage in national, State, and local policy debates that affect North Carolina agriculture;

Whereas at its first annual meeting in Raleigh, North Carolina, on July 30, 1936, the North Carolina Farm Bureau Federation had slightly over 2,000 members from 24 counties;

Whereas in 2005, the North Carolina Farm Bureau Federation was composed of approximately 490,000 member families from all 100 counties of North Carolina, making it the second largest State farm bureau in the United States;

Whereas the North Carolina Farm Bureau Federation created a Women's Program in 1942 and a Young Farmer and Rancher Program in the 1970s to encourage leadership development among its members;

Whereas the North Carolina Farm Bureau Federation is committed to advancing agricultural education in North Carolina through its R. Flake Shaw Scholarship Fund, established in 1958, and the Institute for Future Agricultural Leaders, founded in 1984, which help ensure that the young men and women of North Carolina are well prepared for careers in agriculture;

Whereas the North Carolina Farm Bureau Federation created and continues to sponsor the Ag-In-The-Classroom initiative to introduce children to North Carolina agriculture and to improve the quality of teachers in North Carolina schools;

Whereas the North Carolina Farm Bureau Federation's visionary Board of Directors developed numerous initiatives that enable farmers to effectively produce and sell their products, such as the organization's marketing program, and that provide farmers with access to necessary farm resources, such as the tires, batteries, and accessories service;

Whereas in 1953, the North Carolina Farm Bureau Federation founded the North Carolina Farm Bureau Federation Mutual Insurance Company, which is North Carolina's largest domestic insurance company;

Whereas the Board of Directors of the North Carolina Farm Bureau Federation Mutual Insurance Company is composed entirely of farmers; and

Whereas the North Carolina Farm Bureau Federation is a true grassroots organization dedicated to ensuring that agriculture remains North Carolina's number 1 industry through the organization's unique policy development process and active legislative and regulatory advocacy programs: Now, therefore, be it

Resolved, That the Senate recognizes the North Carolina Farm Bureau Federation on the occasion of its 70th anniversary and salutes the outstanding service of its members and staff on behalf of the agricultural community and the people of North Carolina.

ORDERS FOR FRIDAY, SEPTEMBER 22, 2006, AND MONDAY, SEPTEMBER 25, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, September 22. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and further that notwithstanding the adjournment of the Senate it be in order for Senators to introduce bills on Friday until 11 a.m.; provided further that a bill to be introduced by Senator FRIST or his designee be considered as read a first time and that there be an objection to its second reading. I further ask consent that following the pledge, the Senate then stand in adjournment until the hour of 2 p.m. on Monday, September 25. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of

proceedings be approved to date, the time for the two leaders be reserved, and the Senate then begin a period of morning business, with Senators to speak for up to 10 minutes each.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow we will be in session for a very brief period of time, but we will not have any votes to accommodate those Senators who wish to celebrate Rosh Hashanah. Senators are reminded that we have 1 more week of session and we have a lot of work to do, a lot of important legislative and executive items to wrap up. Senators should be forewarned that there are going to be very busy days throughout the week, and they should plan their schedules accordingly. Thus, our next vote will be at 5:30 on Monday, and that vote will be on the confirmation of a U.S. district judge.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:50 p.m., adjourned until Friday, September 22, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 2006:

NATIONAL TRANSPORTATION SAFETY BOARD

STEVEN R. CHEALANDER, OF TEXAS, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 31, 2007, VICE ELLEN G. ENGLEMAN, RESIGNED.

DEPARTMENT OF STATE

CRAIG ROBERTS STAPLETON, OF CONNECTICUT, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MONACO.

RONALD SPOGLI, OF CALIFORNIA, TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SAN MARINO.

ASIAN DEVELOPMENT BANK

CURTIS S. CHIN, OF NEW YORK, TO BE UNITED STATES DIRECTOR OF THE ASIAN DEVELOPMENT BANK, WITH THE RANK OF AMBASSADOR, VICE PAUL WILLIAM SPELTZ.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVES UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MARGARET A. BLOMME, 0000
BRUCE F. BRUNI, 0000
WILLARD S. ELLIS, 0000
ROBERT P. FORGIT, 0000
HAROLD J. FRENCH, 0000
KURT B. HINRICHS, 0000
JOHN T. LAUFER, 0000
STEVAN C. LITTLE, 0000
SCOTT F. OGAN, 0000
FRANCIS S. PELKOWSKI, 0000
FRED W. REMEN, 0000
MILLARD F. ROBERTS, 0000
NONA M. SMITH, 0000
RICKEY D. THOMAS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be captain

MEREDITH L. AUSTIN, 0000
STEVEN T. BAYNES, 0000
THOMAS D. BEISTLE, 0000
CARLYLE A. BLOMME, 0000
ROBERT E. BROGAN, 0000
WAYNE P. BROWN, 0000
ROBERT S. BURCHELL, 0000
JOHN R. CAPLIS, 0000
MARK A. CAWTHORN, 0000
MICHAEL B. CHRISTIAN, 0000
BARRY A. COMPAGNONI, 0000
MARK E. DOLAN, 0000
BRAD W. FABLING, 0000
LINDA L. FAGAN, 0000
LISA M. FESTA, 0000
JAMES J. FISHER, 0000
BRENDAN C. FROST, 0000
KARL J. GABRIELSEN, 0000
MICHAEL S. GARDINER, 0000
EDWARD J. GIBBONS, 0000
GLENN F. GRAHL, 0000
CATHERINE A. HAINES, 0000
KELLY L. HATFIELD, 0000
MICHAEL J. HAYCOCK, 0000
JOHN N. HEALY, 0000
LISA T. HEFFELFINGER, 0000
JAMES M. HEINZ, 0000
MARK S. HEMANN, 0000
JOHN J. HICKEY, 0000
MARK J. HUEBSCHMAN, 0000
MICHAEL C. HUSAK, 0000
JAY JEWESS, 0000
FRANK H. KINGETT, 0000
SCOTT A. KITCHEN, 0000
ROBERT J. KLAPPROTH, 0000
JOSEPH B. KOLB, 0000
JOHN W. KOSTER, 0000
GARY D. LAKIN, 0000
BOBBY M. LAM, 0000
THOMAS F. LENNON, 0000
PATRICK LITTLE, 0000
JAMES F. MARTIN, 0000
CHRISTOPHER A. MARTINO, 0000
LORI A. MATHIEU, 0000
JAMES G. MAZZONNA, 0000
MICHAEL F. MCALLISTER, 0000
DAVID A. MCBRIDE, 0000
DOUGLAS R. MCCRIMMON, 0000
JOSEPH C. MCGUINESS, 0000
MATTHEW E. MILLER, 0000
WILLIAM J. MILNE, 0000
DAVID W. NEWTON, 0000
HUNG M. NGUYEN, 0000
MARK S. OGLE, 0000
PETER K. OITTINEN, 0000
JOSEPH S. PARADIS, 0000
JOHN R. PASCH, 0000
ROBERT J. PAULISON, 0000
DREW W. PEARSON, 0000
JOSEPH D. PHILLIPS, 0000
SCOTT M. POLLOCK, 0000
DREW A. RAMBO, 0000
JOSEPH M. RE, 0000
KENNETH J. REYNOLDS, 0000
CHRISTOPHER L. ROBERGE, 0000
BYRON H. ROMINE, 0000
JUNE E. RYAN, 0000
CHRISTOPHER P. SCRABA, 0000
JAMES P. SOMMER, 0000
GARY S. SPENIK, 0000
GREGORY J. SUNDGAARD, 0000
CHRISTOPHER J. TOMNEY, 0000
MICHAEL E. TOUSLEY, 0000
ROSANNE TRABOCCHI, 0000
MARK A. TRUE, 0000
STEVEN C. TRUHLAR, 0000
DAVID A. VAUGHN, 0000
MATTHEW VONRUDEN, 0000
RODERICK E. WALKER, 0000
JAMES A. WIERZBICKI, 0000
WERNER A. WINZ, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 271:

To be commander

JOYCE E. AIVALOTIS, 0000
CHARLES G. ALCOCK, 0000
JAMES E. ANDREWS, 0000
WILLIAM J. ANTONAKIS, 0000
DARNELL C. BALDINELLI, 0000
CHARLES B. BARBEE, 0000
MICHAEL A. BARODY, 0000
DALE K. BATEMAN, 0000
DAVID E. BECK, 0000
ALAN L. BLUME, 0000
COREY BONHEIM, 0000
GEOFF R. BORREE, 0000
JEROME K. BRADFORD, 0000
KEVIN F. BRUEN, 0000
MARK J. BRUYERE, 0000
DAVID A. BULLOCK, 0000
GREGORY A. BURG, 0000
JOSEPH S. CALNAN, 0000
MARK A. CAMACHO, 0000
JOSEPH M. CARROLL, 0000
GREGORY L. CARTER, 0000
STEPHEN H. CHAMBERLIN, 0000
GERALD M. CHARLTON, 0000
PETER J. CLEMENS, 0000
AMY B. COCANOUR, 0000
TODD M. COGGESHALL, 0000
BENJAMIN A. COOPER, 0000
JONATHAN E. COPLEY, 0000
TIMOTHY M. CUMMINS, 0000
DEAN J. DARDIS, 0000
MICHAEL H. DAY, 0000
ANDRES V. DELGADO, 0000
TIMOTHY D. DENBY, 0000
PAUL E. DITTMAN, 0000
MARK P. DORAN, 0000
JEFFREY D. DOW, 0000
MICHAEL J. DREIER, 0000
THOMAS P. DURAND, 0000
JAMES E. ELLIOTT, 0000
KENT W. EVERINGHAM, 0000
MARK J. FEDOR, 0000
BOB I. FEIGENBLATT, 0000
LEE S. FIELDS, 0000
PAUL A. FLYNN, 0000
CHARLES E. FOSSE, 0000
DANIEL J. FRANK, 0000
MICHAEL L. GATLIN, 0000
ROBERT C. GAUDET, 0000
KEVIN P. GAVIN, 0000
CLAUDIA C. GELZER, 0000
SHANNON N. GILREATH, 0000
LAWRENCE E. GREENE, 0000
DUSTIN E. HAMACHER, 0000
RICHARD C. HAMBLET, 0000
ROBERT T. HANNAH, 0000
THOMAS W. HARKER, 0000
LONNIE P. HARRISON, 0000
ROBERT T. HENDRICKSON, 0000
GLENA T. HERMES-SANCHEZ, 0000
GLENN C. HERNANDEZ, 0000
CHRISTOPHER M. HOLLINGSHEAD, 0000
RONALD S. HORN, 0000
RICHARD E. HORNER, 0000
PEDRO L. JIMENEZ, 0000
ERIC G. JOHNSON, 0000
KEVIN A. JONES, 0000
TERI L. JORDAN, 0000
VIRGINIA J. KAMMER, 0000
KEVIN M. KEAST, 0000
BRENDA K. KERR, 0000
LAWRENCE A. KILEY, 0000
SUSAN R. KLEIN, 0000
NATHAN E. KNAPP, 0000
SUZANNE E. LANDRY, 0000
WILLIAM J. LANE, 0000
JOHN H. LANG, 0000
MICHAEL P. LEBSACK, 0000
JOSEPH F. LECATO, 0000
SCOTT B. LEMASTERS, 0000
CAROLA J. G. LIST, 0000
CHRISTIAN R. LUND, 0000
KEVIN C. LYONS, 0000
THOMAS S. MACDONALD, 0000
EDWARD J. MAROHN, 0000
KIRSTEN R. MARTIN, 0000
JOHN W. MAUGER, 0000
TIMOTHY A. MAYER, 0000
DAVID G. MCCLELLAN, 0000
ROBERT S. MCCLURE, 0000
JEFFREY R. MCCULLARS, 0000
PATRICK S. MCELLIGATT, 0000
DARRAN J. MCLENON, 0000
KEITH P. MCTIGUE, 0000
STEPHEN M. MIDAS, 0000
NATHAN A. MOORE, 0000
MARK J. MORIN, 0000
MITCHELL A. MORRISON, 0000
ANDREW D. MYERS, 0000
MICHAEL C. NEININGER, 0000
DANIEL R. NORTON, 0000
PETER C. NOURSE, 0000
RANDAL S. OGRYDZIAK, 0000
DAVID J. PALAZZETTI, 0000
ANDREW M. RAIHA, 0000
STEPHEN E. RANEY, 0000
MICHAEL W. RAYMOND, 0000
SEAN P. REGAN, 0000
PAUL E. RENDON, 0000
JONATHON N. RIFFE, 0000
BRADLEY J. RIPKEY, 0000
MELISSA L. RIVERA, 0000
GREGORY S. ROBERTSON, 0000
BRIAN W. ROCHE, 0000
RICARDO RODRIGUEZ, 0000
PATRICK A. ROPP, 0000
MICHAEL T. RORSTAD, 0000
WILLIAM E. RUNNELS, 0000
ORIN E. RUSH, 0000
JOSE A. SALICETI, 0000
THOMAS J. SALVEGGIO, 0000
EDWARD W. SANDLIN, 0000
KARA M. SATRA, 0000
DAVID SAVATGY, 0000
TIMOTHY J. SCHANG, 0000
HARRY M. SCHMIDT, 0000
PATRICK H. SCHMIDT, 0000
DOUGLAS M. SCHOFIELD, 0000
JOSEPH R. SIEMIATKOWSKI, 0000
ROBERT L. SMITH, 0000
ROGER A. SMITH, 0000
JONATHAN S. SPANER, 0000
MIKEAL S. STAIER, 0000
JAMES A. STEWART, 0000
SCOTT D. STEWART, 0000
EDWARD M. STPIERRE, 0000
TODD R. STYRWOLD, 0000
ERICH M. TELFER, 0000
STEVEN C. TESCHENDORF, 0000
JEFFERY W. THOMAS, 0000
PHILLIP R. THORNE, 0000
RICHARD V. TIMME, 0000
WILLIAM R. TIMMONS, 0000
TIMOTHY A. TOBIASZ, 0000
GARY L. TOMASULO, 0000
CARLOS A. TORRES, 0000

JONATHAN W. TOTTE, 0000
MICHAEL T. TRIMPERT, 0000
RANDALL G. WAGNER, 0000
ROBERT W. WARREN, 0000
BRIAN P. WASHBURN, 0000
TIMOTHY J. WENDT, 0000
EDWARD A. WESTFALL, 0000
JEFFREY C. WESTLING, 0000
BRIAN R. WETZLER, 0000
GERARD A. WILLIAMS, 0000
KARL R. WILLIS, 0000
JOSE M. ZUNIGA, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. RAYMOND E. JOHNS, JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. ROBERT D. BISHOP, JR., 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. CHARLES C. CAMPBELL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOSEPH F. PETERSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES D. THURMAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. PETER W. CHIARELLI, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. PAUL S. STANLEY, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUALS IN THE GRADES INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531(A):

To be colonel

RUSSELL G. BOESTER, 0000

To be lieutenant colonel

CHARLES E. CLARK, 0000
EDWARD CULTER, 0000
PANKAG GOYAL, 0000
ANDREA HILLERUD, 0000
ROBERT J. JOHNSON, 0000
ALAN R. NEEFE, 0000
JOHN POAGE, 0000
DUANE C. TUCKER, 0000
MUSSARET A. ZUBERI, 0000

To be major

JOSEPH COLLICA, 0000
PATRICIA E. DALEY, 0000
DIANN B. GORDON, 0000
CHRISTINE M. HOUSER, 0000
LAWRENCE KOSS, 0000
DAVID M. LEVITT, 0000
JULIANA MIRODONE, 0000
BRENDA L. OWEN, 0000
JUAN PACKER, 0000
JAMES M. SCOTT, 0000
VLAD V. STANILA, 0000

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUALS IN THE GRADES INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be commander

ILIN CHUANG, 0000

To be lieutenant commander

WILLIAM P. SMITH, 0000

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, September 21, 2006:

DEPARTMENT OF JUSTICE

KENNETH L. WAINSTEIN, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

DEPARTMENT OF DEFENSE

FRANK R. JIMENEZ, OF FLORIDA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF THE NAVY.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. THOMAS F. ATKIN
CAPT. CHRISTOPHER C. COLVIN
CAPT. CYNTHIA A. COOGAN
CAPT. DAVID T. GLENN
CAPT. MARY E. LANDRY
CAPT. RONALD J. RABAGO
CAPT. PAUL F. ZUKUNFT

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

STEPHEN GOLDSMITH, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR NATIONAL AND COMMUNITY SERVICE FOR A TERM EXPIRING OCTOBER 6, 2010.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

SANDRA PICKETT, OF TEXAS, TO BE A MEMBER OF THE NATIONAL MUSEUM AND LIBRARY SERVICES BOARD FOR A TERM EXPIRING DECEMBER 6, 2010.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

ROGER L. HUNT, OF NEVADA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2009.

JOHN E. KIDDE, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2011.

NATIONAL INSTITUTE FOR LITERACY

ELIZA MCFADDEN, OF FLORIDA, TO BE A MEMBER OF THE NATIONAL INSTITUTE FOR LITERACY ADVISORY BOARD FOR A TERM EXPIRING JANUARY 30, 2009.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JANE M. DOGGETT, OF MONTANA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR A TERM EXPIRING JANUARY 26, 2012.

DEPARTMENT OF LABOR

RANDOLPH JAMES CLERIHUE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF LABOR.

NATIONAL SCIENCE FOUNDATION

ARTHUR K. REILLY, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 2012.

DEPARTMENT OF EDUCATION

LAUREN M. MADDOX, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR COMMUNICATIONS AND OUTREACH, DEPARTMENT OF EDUCATION.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

IN THE COAST GUARD

COAST GUARD NOMINATION OF TINA J. URBAN TO BE LIEUTENANT.

PUBLIC HEALTH SERVICE

PUBLIC HEALTH SERVICE NOMINATIONS BEGINNING WITH JUDITH LOUISE BADER AND ENDING WITH RAQUEL ANTONIA PEAT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 27, 2006.