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Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

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

Let us pray.

Eternal Spirit, healer of the wounds of sorrow, we pray today for those who mourn. Bless and sustain those in Great Britain, who recover from the insanity of senseless violence. Give the sunshine of hope to all who have endured the night of losing a loved one. Comfort military families who know the pain of the sound of silence and the empty chair.

Bring solace to those who weep because of lost opportunities and seasons of despair. Transform their sorrow into song, their darkness into light, and their sadness into joy.

Today, use our Senators to begin the process of creating a world where peace will reign. Hasten the day when tears will be no more, and the kingdoms of this world will become Your kingdom, as You rule forever and ever. We pray this in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

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

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. MCCONNELL. Mr. President, today we will begin consideration of the Homeland Security appropriations bill. We have an agreement that all first-degree amendments to that bill will be filed by 4 p.m. this afternoon. That will allow both managers of the legislation to get a better understanding of how many issues and amendments are expected in relation to the Homeland Security measure.

As the majority leader announced prior to the recess, there will be a rollcall vote this afternoon at approximately 5:30. That vote is expected to be in relation to a resolution regarding the recent bombing in London.

We will have a busy stretch of activity over the next 3 weeks with many pressing legislative and executive items that must be completed prior to the August recess. I encourage Senators to make themselves available on Mondays and Fridays throughout the month as the majority leader will be using all available time to make progress on appropriations bills and other priorities.

I will have a statement in a few moments, but I yield the floor so the Democratic leader can make whatever observations he would like to make.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

PRESSING ISSUES

Mr. REID. Mr. President, I express my appreciation to the distinguished majority whip, the assistant leader. I acknowledge we have a lot of work to do during this work period. I hope we can accomplish a great deal. We had a great couple of weeks right before we left. I hope the week off, the Fourth of July, was good for everyone. I know it was for me to get away from Washington and breathe some of that good desert air.

Sandra Day O'Connor retired just over a week ago. As the first woman to serve as a Supreme Court Justice, she blazed a trail which I hope many will follow. She decided cases the old-fashioned way, based on law, not politics.

As a westerner, she brought to the Court a love of the land and an appreciation for individual rights. I salute the people of Arizona for giving us such a dedicated public servant, someone who served in the State of Arizona as a State legislator, a member of an intermediate court of appeals and, of course, an inspiring career as a Supreme Court Justice.

Now we have begun the process of finding her replacement. The Constitution gives the President and the Senate shared responsibility to fill this vacancy because a President may only act with the advice and consent of the Senate. I appreciate very much President Bush beginning this process of consultation the way he has. I will always be grateful for the private meeting he and I had prior to her retiring and the phone call he placed to me the day of her retirement.

It speaks volumes that his chief of staff, Andy Card, was calling various members of the Senate from Scotland. Harriet Myers called various members of the Senate. That is important. I appreciate it very much. In the days and weeks ahead, it is important that meaningful consultation continues. Together we can find someone who will bring the country together.

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

The President has asked the majority leader, the ranking member and the chairman of the Judiciary Committee meet with him early tomorrow morning. I look forward to that meeting.

This is what President Reagan did when he appointed Sandra Day O'Connor: He brought the country together. Both parties cheered her nomination. That can happen again if President Bush nominates us a Justice we can all be proud of, a mainstream Justice committed to protecting the rights of all Americans. There are large numbers of conservative jurists and lawyers who fit that description perfectly.

Events in London last Thursday reminded us that the freedoms and rights Supreme Court Justices protect are a threat to those with a very different view of the world. My heart and my prayers go out to the victims of the London attacks and the people of Great Britain. The bombings were the acts of cowards. We must redouble our effort to track down the murderous thugs who committed those terrible acts. We must continue our effort to track down the murderous thugs who would do us harm.

I have great affection and admiration for the people of Great Britain. Their proud tradition of resiliency and determination was on display last week in the face of this latest attack on their people and the great city of London.

Unfortunately, the British people have considerable experience with attacks of terrorists on their homeland, including repeated terrorist attacks from supporters of the Irish Republican Army. There are important lessons that can be drawn from the British response to these attacks. First, Britain remains determined not to change its way of life and its principles while at the same time vigorously pursuing those responsible for the criminal acts.

It is important to note the people of Great Britain care about the Irish people, just as we do. I have been to that wonderful emerald isle. I love the country. I love the island. The fact that a few people perpetrated those acts of violence does not take away from our admiration for those people.

The same applies in Britain with the acts of Islamic terrorists. That does not take away from the fact that the people who follow the Islamic religion are good people who follow a very important, good religion. The morality code of that religion is significantly important. They are good people. I have gotten so close to them.

My wife's two physicians, a surgeon and an internist, are Pakistanis. They are among our closest friends. We visit each other's homes often. We celebrate different holidays together. We exchange presents. They are wonderful people. These are two devoutly religious men whose religion we have learned to respect greatly. The people of Great Britain understand that. They did not sever relations with an entire people because of the actions of a very few who are part of that people.

There was great concern in the wake of these attacks about a backlash against the Arab community. What we saw was just the opposite: a couple of broken windows by a few troublemakers, but basically nothing. The people of Great Britain have come together, all people have come together, all walks of life, all religions. That is an example for us. I am hopeful Great Britain and we in the United States will continue to heed both of these lessons in the wake of last week's bombings.

As the distinguished assistant leader mentioned, there is a third lesson we can draw from the London attacks and it is relevant to matters in the Senate. I say what my distinguished colleague mentioned, the senior Senator from Kentucky. We are going to take up the Homeland Security bill. The lesson we need to learn is simple: Fighting terrorism overseas is not enough to ensure that terrorists will not strike where we live. Today the Senate begins consideration of the Homeland Security appropriations bill. That will occur in less than an hour. We spend more in Iraq in a single month than we spend on first responders all year. Failure in Iraq is not an option, and we will continue to support our troops, but we must do more to support the war on terror here at home.

The minority, the Democrats, are committed to doing everything possible to defeat terrorism abroad. We have repeatedly argued that we need to be equally vigorous in our efforts to protect the American people from terrorist attacks at home. Unfortunately, the administration has never grasped this reality. We have offered amendment after amendment and they have been defeated on party line votes.

We supported establishment of the Homeland Security Department before September 11. And as we recall, this administration opposed the establishment of this agency even after September 11. Once the administration relented and a homeland security agency was established, Democrats repeatedly sought to ensure that this agency received the resources it needed to make Americans and America more secure.

Democrats sought to beef up our security on rail and transit systems, our chemical plants, our nuclear power generating facilities, and this administration and the Republican Senators in this Senate said no.

Democrats sought to increase security on chemical and nuclear facilities, as I have indicated, and other critical infrastructure. It was ''no'' again. Democrats attempted to improve security at this Nation's ports and the Bush administration, Republicans, said no. Finally, we sought to ensure that this Nation's first responders obtain the resources they need to deter terrorists from attacking, and again Republicans said no.

The bill before the Senate presents another opportunity for all Members. We will have amendments to address each of these areas this week. I am hopeful, with everything we know, the majority will at long last agree with Democrats that we should be doing much more to protect the Nation from terrorist attacks at home.

VETERANS

Let me close with a few words about our Nation's veterans. After months of denial—in fact, more than a year—that a problem even existed, Senate Republicans late last month agreed with Democrats—reluctantly—that our veterans were not getting the care and resources they earned and deserved. Remember, we brought this up before committee on at least two occasions, as well as on the Senate floor, and every time it was voted down by a strict party line vote and we did not get the veterans what they wanted.

With great fanfare, Senate Republicans announced they were wrong for opposing Democratic efforts to provide additional efforts to the veterans health care system and would not support providing an additional $1.5 billion.

We appeared to be on the road to getting something done for our veterans. Unfortunately, rather than quickly passing the Senate figure and ensuring our veterans immediately got the resources they need, House Republicans decided to play games and give our veterans significantly less in the process, more than half a billion.

Even worse than what the Republicans in the House did, rather than standing up for a vote they had cast a day or so earlier, Senate Republicans blinked and backtracked. Senate Republicans objected to a unanimous consent request to make the House-passed bill consistent with the level they had supported just a few hours earlier.

Our first amendment, then, on this bill will be to give the Senate majority another opportunity to show our veterans and the American public where they stand. We will offer an amendment to give the veterans an additional $1.5 billion. Probably that is not enough because from some of the statistics we hear it is now closer to $2 billion. But what if we are wrong? What if we are giving the veterans a little more? Is there anything wrong with that? I do not think we are giving them a little more. We are giving them less. But would there be anything wrong with that? I hope the resounding answer is no.

So I hope that the majority will join us in supporting this amendment. And, just as importantly, let's not play politics with America's veterans.

I again thank my friend, the distinguished Senator from Kentucky, for allowing me to speak now because he did have the floor.

The PRESIDENT pro tempore. The Senator from Kentucky.

LONDON TERRORIST ATTACKS

Mr. MCCONNELL. Mr. President, today I rise to express my condolences

to the victims and their families after last Thursday's depraved and savage terrorist attacks in London. I also rise to pledge my, and I am sure the entire U.S. Senate's, steadfast support for the people of London and the United Kingdom as they stand resolute—as they always have—in the face of terror.

On July 7 of last week, bombs exploded in three subway trains of the London Underground. A fourth ripped open a city bus. At least 52 are dead, and hundreds are wounded.

Just as a personal note, I have a daughter living in the London area. Just a month ago, I put her on the subway right near where one of the bombs went off. So I was among the many Americans who were frantically interested in getting word on our own relatives after the attacks, which is another indication of just how closely tied the United States and the United Kingdom are.

These killers, whoever they are, have an utter disregard for human life. They indiscriminately kill innocent people. The explosions were timed to go off during the morning rush hour, to kill the maximum number of people.

But we should not be surprised by the barbarity of July 7. We have seen it before. On September 11, 2001, the same impulse of evil that touched London stretched over the ocean to the United States and murdered 3,000 of our own.

Ever since the terrorist attacks of September 11, America has waged a global war on terror. We resolved that day to pursue the terrorists and bring them to justice before they could strike American soil again. This latest attack has changed nothing. We are still defiant in the face of terror. We are still committed to following terror wherever it may hide, wresting it out from the swamps and shadows where it takes harbor, and destroying it.

The United Kingdom has been a strong and steadfast ally throughout the war on terror. Her resolve is only strengthened by this latest attack. Our British cousins will fight the terrorists with the same heroic mettle their forefathers used to face down Hitler during World War II. Sixty years ago, Americans tuned their radios to hear of British courage during the German bombing of London. Today, we see that same British courage on television. Many Londoners returned to ride the Underground and buses the very next day, unbowed by the terrorists.

Prime Minister Tony Blair has led his country magnificently in the war on terror. He follows in the footsteps of previous Prime Ministers who have steeled their nation's spine in times of challenge: Margaret Thatcher and Winston Churchill. I have no doubt Prime Minister Blair will respond to these attacks with the same courage and resolve as his predecessors, and he obviously has all of our full and unqualified support.

America and Great Britain united will never yield to the terrorists. We will defeat them, and at the same time, we will spread justice and liberty to combat their call to oppression and death. Our cause, which speaks to the noblest parts of the human soul, will win, just as it has throughout our shared and glorious history.

May God bless America and the United Kingdom.

Mr. President, I yield the floor.

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

TRIBUTE TO ALLY MILDER

Mr. GRASSLEY. Mr. President, just 2 weeks ago a former staffer and longtime friend, Ally Milder, and a business associate of hers came to spend the weekend at the Grassley farm in New Hartford, IA. I tried to get Ally to step out of her fancy shoes for a couple of days and learn a little about farming. I never did persuade her to feed pigs, but we had a lot of laughs.

Today I stand before the Senate with great sadness because Ally Milder—my former chief counsel and a good friend to Barbara and me—died suddenly last Thursday at the age of 50. Ally is gone suddenly and too young. I extend my deep sympathy to her mother Frances and sisters Julie and Kelly, and pay tribute to Ally Milder with much regard.

I met Ally in 1981. She was one of my first counsels on the Senate Judiciary Committee. I was a freshman Senator. She was fresh out of law school and stayed on my staff until 1987, becoming chief counsel during that time. Ally and I shared a great interest in religious freedom. Her leadership helped me to be very active in Soviet Jewry issues as a Senator, including a 1983 trip to the Soviet Union where we met with Russian Jews, the refuseniks, in Moscow. Ally was instrumental in forming the InterParliamentary Group for Human Rights in the Soviet Union, an important weapon in the fight against abuses and for freedom for Soviet Jews. Her tremendous enthusiasm and commitment to this important cause was also proved when she staffed passage of legislation to change the address of the Soviet Embassy in Washington to One Sakharov Plaza. We had to fight the State Department and all kinds of other powerful interests to prevail and provide a daily reminder that America would not overlook the plight of dissidents. Ally personally made a difference in the course of history with her work in this area of human rights.

Ally worked on many issues during those years, including the nomination of Justice Sandra Day O'Connor to the Supreme Court and extension of the Voting Rights Act. Under her leadership of my Judiciary staff, the False Claims Act was passed and signed into law. This landmark legislation updated a Civil War-era law to empower individual citizen-whistleblowers to fight fraud against the taxpayers. In the nearly two decades this law has been on the books, it has returned more than $12 billion to the U.S. Treasury that would otherwise have been lost to fraud. In addition, Ally oversaw renewal of Chapter 12 of the Federal Bankruptcy Code, which was a lifeline for family farmers needing to reorganize debt and stay in farming during the terrible farm crisis of the 1980s.

Whatever she was working on, Ally brought energy, a let's-make-it-happen attitude, and characteristic good nature to the task. Her skill and style made her a respected and well-liked colleague on the staff.

Ally left Washington to return home and run for Congress herself, making two good attempts for the Second District seat in Nebraska. I campaigned with her several times. She was tireless about reaching the voters, and we spent one of those days going to all the small towns and rural areas in the district. From what I know about Ally Milder, both before and after she ran for the House of Representatives, I am convinced she would have made a very good Congresswoman. Ally went on to serve on the State board of education starting in 1992, and launched a successful consulting and lobbying practice.

Ally always kept in close touch, and she loved politics. I appreciate the support she gave me. She was generous and shared her commitment to making things better in a lot of ways, including mentoring economically disadvantaged young people.

It is hard to believe that Ally won't be walking around the corner somewhere, sometime next week, with her big smile and warm embrace. Knowing Ally, she might want us to take comfort today in an old Jewish saying that ''the only truly dead are those who have been forgotten.'' There is no doubt that Ally Milder will be remembered. She was full of life, bright, hardworking, and someone focused on the good things in life and making life good for those around her. She will be greatly missed.

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

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

The legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2006

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will proceed

to the consideration of H.R. 2360, which the clerk will report.

The bill clerk read as follows:

A bill (H.R. 2360) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

H.R. 2360

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, namely:

[TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

[OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

[For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $133,239,000 (reduced by $100,000): *Provided,* That not to exceed $40,000 shall be for official reception and representation expenses: *Provided further,* That of the amounts appropriated under this heading, $20,000,000 shall not be available for obligation until the Secretary of Homeland Security submits to the Committee on Appropriations of the House of Representatives an immigration enforcement strategy to reduce the number of undocumented aliens, based upon the latest United States Census Bureau data, by 10 percent per year: *Provided further*, That of the amounts appropriated under this heading, $10,000,000 shall not be available for obligation until section 525 of this Act is implemented: *Provided further,* That the Secretary shall submit all reports requested by the Committee on Appropriations of the House of Representatives for all agencies and components of the Department of Homeland Security, as identified in this Act and the House report accompanying this Act, by the dates specified: *Provided further,* That the content of all reports shall be in compliance with the direction and instructions included in this Act and the House report accompanying this Act by the dates specified: *Provided further,* That, of the amounts appropriated under this heading, $20,000,000 may not be obligated until the Committee on Appropriations of the House of Representatives has received all final reports in compliance with such direction and instructions.

[OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

[For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $146,084,000 (reduced by $26,100,000) (reduced by $50,000,000): *Provided,* That not to exceed $3,000 shall be for official reception and representation expenses: *Provided further,* That of the total amount provided, $26,070,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

[OFFICE OF THE CHIEF FINANCIAL OFFICER

[For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $18,505,000.

[OFFICE OF THE CHIEF INFORMATION OFFICER

[For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $303,700,000; of which $75,756,000 shall be available for salaries and expenses; and of which $227,944,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: *Provided,* That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: *Provided further,* That the Department shall report within 180 days of enactment of this Act on its enterprise architecture and other strategic planning activities in accordance with the terms and conditions specified in the House report accompanying this Act.

[OFFICE OF INSPECTOR GENERAL

[For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $83,017,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

[TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

[BORDER AND TRANSPORTATION SECURITY

[OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

[SALARIES AND EXPENSES

[For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by subtitle A of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), $10,617,000: *Provided,* That not to exceed $3,000 shall be for official reception and representation expenses.

[AUTOMATION MODERNIZATION

[For necessary expenses of the United State Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note) and for the development, deployment, and use of Free and Secure Trade (FAST), NEXUS, and Secure Electronic Network for Traveler's Rapid Inspection (SENTRI), $411,232,000, to remain available until expended, which shall be allocated as follows:

[(1) $7,000,000 for FAST.

[(2) $14,000,000 for NEXUS/SENTRI.

[(3) $390,232,000 for the United States Visitor and Immigrant Status Indicator Technology project: *Provided,* That of the funds provided for this project, $254,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

[(A) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

[(B) complies with the Department of Homeland Security enterprise information systems architecture;

[(C) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

[(D) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

[(E) is reviewed by the Government Accountability Office.

[CUSTOMS AND BORDER PROTECTION

[SALARIES AND EXPENSES

[For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,885,544,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $35,000 shall be for official reception and representation expenses; of which not less than $141,060,000 shall be for Air and Marine Operations; of which not to exceed $174,800,000 shall remain available until September 30, 2007, for inspection and surveillance technology, unmanned aerial vehicles, and replacement aircraft; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; and of which not to exceed $5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: *Provided*, That for fiscal year 2006, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated in this Act may be available to compensate any employee of the Bureau of Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Under Secretary for Border and Transportation Security, or a designee, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies: *Provided further,* That of the total amount provided, $10,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives all required reports related to air and marine operations: *Provided further*, That of the total amount provided, $2,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives a report on the performance of the Immigration Advisory Program as directed in House

Report No. 108–541: *Provided further*, That of the total amount provided, $70,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives part two of the report on the performance of the Container Security Initiative progam, as directed in House Report 180–541: *Provided further*, That no funds shall be available for the site acquisition, design, or construction of any Border Patrol checkpoint in the Tucson sector: *Provided further*, That the Border Patrol shall relocate its checkpoints in the Tucson sector at least once every seven days in a manner designed to prevent persons subject to inspection from predicting the location of any such checkpoint.

[AUTOMATION MODERNIZATION

[For expenses for customs and border protection automated systems, $458,009,000, to remain available until expended, of which not less than $321,690,000 shall be for the development of the Automated Commercial Environment: *Provided*, That none of the funds appropriated under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that—

[(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

[(2) complies with the Department of Homeland Security's enterprise information systems architecture;

[(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

[(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

[(5) is reviewed by the Government Accountability Office.

[AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

[For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Under Secretary for Border and Transportation Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $347,780,000, to remain available until expended: *Provided*, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to Bureau of Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2006 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

[CONSTRUCTION

[For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $93,418,000, to remain available until expended.

[IMMIGRATION AND CUSTOMS ENFORCEMENT

[SALARIES AND EXPENSES

[For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,300 (2,000 for replacement only) police-type vehicles, $3,064,081,000 (reduced by $5,000,000) (increased by $5,000,000), of which not to exceed $10,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Under Secretary for Border and Transportation Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; of which not less than $5,000,000 shall be for costs to implement section 287(g) of the Immigration and Nationality Act, as amended; and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: *Provided*, That none of the funds appropriated shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Under Secretary for Border and Transportation Security may waive that amount as necessary for national security purposes and in cases of immigration emergencies: *Provided further*, That of the total amount provided, $3,045,000 shall be for activities to enforce laws against forced child labor in fiscal year 2006, of which not to exceed $2,000,000 shall remain available until expended: *Provided further*, That of the amounts appropriated, $50,000,000 shall not be available for obligation until the Assistant Secretary of Immigration and Customs Enforcement submits to the Committee on Appropriations of the House of Representatives a national detention management plan including the use of regional detention contracts and alternatives to detention: *Provided further*, That the Assistant Secretary of Immigration and Customs Enforcement, with concurrence of the Secretary of Homeland Security, shall submit, by December 1, 2005, to the Committee on Appropriations of the House of Representatives a plan for the expanded use of Immigration Enforcement Agents to enforce administrative violations of United States immigration laws.

[FEDERAL AIR MARSHALS

[For necessary expenses of the Federal Air Marshals, $698,860,000, of which not to exceed $5,000,000 shall remain available until expended.

[FEDERAL PROTECTIVE SERVICE

[The revenues and collections of security fees credited to this account, not to exceed $487,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.

[AUTOMATION MODERNIZATION

[For expenses of immigration and customs enforcement automated systems, $40,150,000, to remain available until expended: *Provided*, That none of the funds appropriated under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Under Secretary for Border and Transportation Security that—

[(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

[(2) complies with the Department of Homeland Security enterprise information systems architecture;

[(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

[(4) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

[(5) is reviewed by the Government Accountability Office.

[CONSTRUCTION

[For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,546,000, to remain available until expended.

[TRANSPORTATION SECURITY ADMINISTRATION

[AVIATION SECURITY

[For necessary expenses of the Transportation Security Administration related to providing aviation security, $4,591,612,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be available for official reception and representation expenses: *Provided*, That of the total amount provided under this heading, not to exceed $3,608,599,000 shall be for screening operations, of which $170,000,000 shall be available only for procurement of checked baggage explosive detection systems and $75,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $983,013,000 shall be for aviation security direction and enforcement presence: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,601,612,000: *Provided further*, That any security service fees collected in excess of the amount appropriated under this heading shall become available during fiscal year 2007: *Provided further*, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time equivalent screeners.

[SURFACE TRANSPORTATION SECURITY

[For necessary expenses of the Transportation Security Administration related to providing surface transportation security activities, $36,000,000, to remain available until September 30, 2007.

[TRANSPORTATION VETTING AND CREDENTIALING

[For necessary expenses for the development and implementation of screening programs by the Office of Transportation Vetting and Credentialing, $84,294,000.

[TRANSPORTATION SECURITY SUPPORT

[For necessary expenses of the Transportation Security Administration related to providing transportation security support and intelligence activities, $541,008,000, to remain available until September 30, 2007: *Provided*, That of the funds appropriated under

this heading, $50,000,000 may not be obligated until the Secretary submits to the Committee on Appropriations of the House of Representatives: (1) a plan for optimally deploying explosive detection equipment, either in-line or to replace explosive trace detection machines, at the Nation's airports on a priority basis to enhance security, reduce Transportation Security Administration staffing requirements, and long-term costs; and (2) a detailed spend plan for explosive detection systems procurement and installations on an airport-by-airport basis for fiscal year 2006: *Provided further*, That these plans shall be submitted no later than 60 days after enactment of this Act.

[UNITED STATES COAST GUARD

[OPERATING EXPENSES

[For necessary expenses for the operation and maintenance of the Coast Guard not otherwise provided for, purchase or lease of not to exceed 25 passenger motor vehicles for replacement only, payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note), and recreation and welfare, $5,500,000,000, of which $1,200,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided*, That none of the funds appropriated by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: *Provided further*, That none of the funds provided by this Act shall be available for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

[ENVIRONMENTAL COMPLIANCE AND RESTORATION

[For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $12,000,000, to remain available until expended.

[RESERVE TRAINING

[For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $119,000,000.

[ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

[For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $798,152,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $22,000,000 shall be available until September 30, 2010, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $29,902,000 shall be available until September 30, 2010, to increase aviation capability; of which $130,100,000 shall be available until September 30, 2008, for other equipment; of which $39,700,000 shall be available until September 30, 2008, for shore facilities and aids to navigation facilities; of which $76,450,000 shall be available for personnel compensation and benefits and related costs; and of which $500,000,000 shall be available until September 30, 2010, for the Integrated Deepwater Systems program: *Provided*, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2008, only for Rescue 21: *Provided further*, That of the funds appropriated under this heading for the Integrated Deepwater System, $50,000,000 may not be obligated until the Committee on Appropriations of the House of Representatives receives from the Secretary of Homeland Security a new Deepwater program baseline that reflects revised, post September 11th operational priorities that includes—

[(1) a detailed justification for each new Deepwater asset that is determined to be necessary to fulfill homeland and national security functions or multi-agency procurements as identified by the Joint Requirements Council;

[(2) a comprehensive timeline for the entire Deepwater program, including an asset-by-asset breakdown, aligned with the comprehensive acquisition timeline and revised mission needs statement, that also details the phase-out of legacy assets and the phase-in of new, replacement assets on an annual basis;

[(3) a comparison of the revised acquisition timeline against the original Deepwater timeline;

[(4) an aggregate total cost of the program that aligns with the revised mission needs statement, acquisition timeline and asset-by-asset breakdown;

[(5) a detailed projection of the remaining operational lifespan of every type of legacy cutter and aircraft; and

[(6) a detailed progress report on command, control, communications, computers, intelligence, surveillance, and reconnaissance equipment upgrades that includes what has been installed currently on operational assets and when such equipment will be installed on all remaining Deepwater legacy assets: *Provided further*, That the Secretary shall annually submit to the Committee on Appropriations of the House of Representatives, at the time that the President's budget is submitted under section 1105(a) of title 31, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

[(1) the proposed appropriation included in that budget;

[(2) the total estimated cost of completion;

[(3) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

[(4) an estimated completion date at the projected funding levels; and

[(5) changes, if any, in the total estimated cost of completion or estimated completion date from previous future-years capital investment plans submitted to the Committee on Appropriations of the House of Representatives:

[*Provided further*, That the Secretary shall ensure that amounts specified in the future-years capital investment plan are consistent to the maximum extent practicable with proposed appropriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31 for that fiscal year: *Provided further*, That any inconsistencies between the capital investment plan and proposed appropriations shall be identified and justified.

[ALTERATION OF BRIDGES

[For necessary expenses for alteration or removal of obstructive bridges, $15,000,000, to remain available until expended.

[RETIRED PAY

[For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,014,080,000.

[UNITED STATES SECRET SERVICE

[SALARIES AND EXPENSES

[For necessary expenses of the United States Secret Service, including purchase of not to exceed 614 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at his or her post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,228,981,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,678,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,000,000 shall be a grant for activities related to the investigations of exploited children and shall remain available until expended: *Provided*, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2007: *Provided further*, That of the total amount appropriated, not less than $10,000,000 shall be available solely for the unanticipated costs related to security operations for National Special Security Events, to remain available until September 30, 2007: *Provided further*, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

[ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

[For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,699,000, to remain available until expended.

[TITLE III—PREPAREDNESS AND RECOVERY

[OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

[MANAGEMENT AND ADMINISTRATION

[For necessary expenses for the Office of State and Local Government Coordination and Preparedness, $3,546,000: *Provided,* That not to exceed $2,000 shall be for official reception and representation expenses.

[STATE AND LOCAL PROGRAMS

[For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,781,300,000 (increased by $100,000) (increased by $50,000,000), which shall be allocated as follows:

[(1) $750,000,000 for formula-based grants and $400,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): *Provided,* That the application for grants shall be made available to States within 45 days after enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 90 days after receipt of an application: *Provided further,* That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

[(2) $1,215,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

[(A) $850,000,000 shall be for use in high-threat, high-density urban areas;

[(B) $150,000,000 shall be for port security grants, which shall be distributed based on risks and vulnerabilities: *Provided,* That the Office of State and Local Government Coordination and Preparedness shall work with the Information Analysis and Infrastructure Protection Directorate to assess the risk associated with each port and with the Coast Guard to evaluate the vulnerability of each port: *Provided further,* That funding may only be made available to those projects recommended by the Coast Guard Captain of the Port;

[(C) $5,000,000 shall be for trucking industry security grants;

[(D) $10,000,000 shall be for intercity bus security grants;

[(E) $150,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

[(F) $50,000,000 shall be for buffer zone protection grants:

[*Provided,* That for grants under subparagraph (A), the application for grants shall be made available to States within 45 days after enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of State and Local Government Coordination and Preparedness shall act within 90 days after receipt of an application: *Provided further,* That no less than 80 percent of any grant under this paragraph to a State shall be made available by the State to local governments within 60 days after the receipt of the funds.

[(3) $50,000,000 shall be available for the Commercial Equipment Direct Assistance Program.

[(4) $366,300,000 for training, exercises, technical assistance, and other programs:

[*Provided,* That none of the grants provided under this heading shall be used for the construction or renovation of facilities; for minor perimeter security projects, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: *Provided further,* That the proceeding proviso shall not apply to grants under subparagraphs (B) and (E) of paragraph (2) of this heading: *Provided further,* That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary of Homeland Security: *Provided further,* That funds appropriated for law enforcement terrorism prevention grants under paragraph (1) and discretionary grants under paragraph (2)(A) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office of State and Local Government Coordination and Preparedness certified training, as needed: *Provided further,* That in accordance with the Department's implementation plan for Homeland Security Presidential Directive 8, the Office of State and Local Government Coordination and Preparedness shall issue the final National Preparedness Goal no later than October 1, 2005; and no funds provided under paragraphs (1) and (2)(A) shall be awarded to States that have not submitted to the Office of State and Local Government Coordination and Preparedness an updated State homeland strategy based on the interim National Preparedness Goal, dated March 31, 2005.

[FIREFIGHTER ASSISTANCE GRANTS

[For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $600,000,000 (increased by $50,000,000), of which $550,000,000 (increased by $25,000,000) shall be available to carry out section 33 (15 U.S.C. 2229) and $50,000,000 (increased by $25,000,000) shall be available to carry out section 34 (15 U.S.C. 2229a) of the Act, to remain available until September 30, 2007: *Provided,* That not to exceed 5 percent of this amount shall be available for program administration.

[EMERGENCY MANAGEMENT PERFORMANCE GRANTS

[For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reductions Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $180,000,000: *Provided,* That total administrative costs shall not exceed 3 percent of the total appropriation.

[COUNTERTERRORISM FUND

[For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $10,000,000, to remain available until expended: *Provided,* That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

[EMERGENCY PREPAREDNESS AND RESPONSE

[OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE

[For necessary expenses for the Office of the Under Secretary for Emergency Preparedness and Response, as authorized by section 502 of the Homeland Security Act of 2002 (6 U.S.C. 312), $2,306,000.

[PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

[For necessary expenses for preparedness, mitigation, response, and recovery activities of the Directorate of Emergency Preparedness and Response, $249,499,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).

[ADMINISTRATIVE AND REGIONAL OPERATIONS

[For necessary expenses for administrative and regional operations of the Directorate of Emergency Preparedness and Response, $225,441,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): *Provided,* That not to exceed $3,000 shall be for official reception and representation expenses.

[PUBLIC HEALTH PROGRAMS

[For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.

[RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

[The aggregate charges assessed during fiscal year 2006, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: *Provided,* That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: *Provided further,* That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2006, and remain available until expended.

[DISASTER RELIEF

[For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $2,023,900,000 (reduced by $23,900,000), to remain available until expended.

[DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

[For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: *Provided,* That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: *Provided further,* That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

[FLOOD MAP MODERNIZATION FUND

[For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State

and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: *Provided,* That total administrative costs shall not exceed 3 percent of the total appropriation.

[NATIONAL FLOOD INSURANCE FUND

[(INCLUDING TRANSFER OF FUNDS)

[For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $36,496,000 for salaries and expenses associated with flood mitigation and flood insurance operations; not to exceed $40,000,000 for financial assistance under section 1361A of such Act to States and communities for taking actions under such section with respect to severe repetitive loss properties, to remain available until expended; not to exceed $10,000,000 for mitigation actions under section 1323 of such Act; and not to exceed $99,358,000 for flood hazard mitigation, to remain available until September 30, 2007, including up to $40,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2007, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: *Provided,* That in fiscal year 2006, no funds in excess of: (1) $55,000,000 for operating expenses; (2) $660,148,000 for agents' commissions and taxes; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

[NATIONAL FLOOD MITIGATION FUND

[Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $40,000,000, to remain available until September 30, 2007, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $40,000,000 shall be derived from the National Flood Insurance Fund.

[NATIONAL PRE-DISASTER MITIGATION FUND

[For a pre-disaster mitigation grant program pursuant to title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $150,000,000, to remain available until expended: *Provided,* That grants made for pre-disaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)): *Provided further,* That total administrative costs shall not exceed 3 percent of the total appropriation.

[EMERGENCY FOOD AND SHELTER

[To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: *Provided,* That total administrative costs shall not exceed 3.5 percent of the total appropriation.

[TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES

[CITIZENSHIP AND IMMIGRATION SERVICES

[For necessary expenses for citizenship and immigration services, $120,000,000: *Provided,* That the Director of United States Citizenship and Immigration Services shall submit to the Committee on Appropriations of the House of Representatives a report on its information technology transformation efforts and how these efforts align with the enterprise architecture standards of the Department of Homeland Security within 90 days of enactment of this Act.

[FEDERAL LAW ENFORCEMENT TRAINING CENTER

[SALARIES AND EXPENSES

[For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $194,000,000, of which up to $36,174,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2007; and of which not to exceed $12,000 shall be for official reception and representation expenses: *Provided,* That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: *Provided further,* That in fiscal year 2006 and thereafter, the Center is authorized to assess pecuniary liability against Center employees and students for losses or destruction of government property due to gross negligence or willful misconduct and to set off any resulting debts due the United States by Center employees and students, without their consent, against current payments due the employees and students for their services.

[ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

[For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $64,743,000, to remain available until expended: *Provided,* That the Center is authorized to accept reimbursement to this appropriation from government agencies requesting the construction of special use facilities.

[INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

[MANAGEMENT AND ADMINISTRATION

[For salaries and expenses of the immediate Office of the Under Secretary for Information Analysis and Infrastructure Protection and for management and administration of programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $198,200,000: *Provided,* That not to exceed $5,000 shall be for official reception and representation expenses.

[ASSESSMENTS AND EVALUATIONS

[For necessary expenses for information analysis and infrastructure protection as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $663,240,000, to remain available until September 30, 2007.

[SCIENCE AND TECHNOLOGY

[MANAGEMENT AND ADMINISTRATION

[For salaries and expenses of the immediate Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $81,399,000: *Provided,* That not to exceed $3,000 shall be for official reception and representation expenses.

[RESEARCH, DEVELOPMENT, ACQUISITION AND OPERATIONS

[For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $1,258,597,000, to remain available until expended: *Provided,* That of the total amount provided under this heading, $23,000,000 is available to find an alternative site for the National Bio and Agrodefense Laboratory and other pre-construction activities to establish research labs to protect animal and public health from high consequence animal and zoonotic diseases, in support of the requirements of Homeland Security Presidential Directives 9 and 10: *Provided further,* That of the total amount provided under this heading, $10,000,000 shall be used to enhance activities toward implementation of section 313 of the Homeland Security Act of 2002 (6 U.S.C. 193).

[TITLE V—GENERAL PROVISIONS

[(INCLUDING RESCISSION OF FUNDS)

[SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

[SEC. 502. Subject to the requirements of section 503 of this Act, the unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this Act: *Provided,* That balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

[SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use funds directed for a specific activity by either the House or Senate Committees on Appropriations for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

[(b) None of the funds provided by this Act, provided by previous appropriation Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from

any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

[(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: *Provided*, That any transfer under this subsection shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

[(d) The Department shall submit all notifications pursuant to subsections (a), (b), and (c) of this section no later than June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

[SEC. 504. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations for salaries and expenses for fiscal year 2006 in this Act shall remain available through September 30, 2007, in the account and for the purposes for which the appropriations were provided: *Provided*, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

[SEC. 505. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

[SEC. 506. The Federal Law Enforcement Training Center shall establish an accrediting body, to include representatives from the Federal law enforcement community and non-Federal accreditation experts involved in law enforcement training, to establish standards for measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and instructors.

[SEC. 507. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000 unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and House of Representatives at least 3 full business days in advance: *Provided*, That no notification shall involve funds that are not available for obligation.

[SEC. 508. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

[SEC. 509. The Director of the Federal Law Enforcement Training Center (FLETC) shall schedule basic and/or advanced law enforcement training at all four training facilities under FLETC's control to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

[SEC. 510. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

[SEC. 511. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

[SEC. 512. Funding for the Transportation Security Administration's Office of Transportation Security Support, Office of the Administrator, shall be reduced by $100,000 per day for each day after enactment of this Act that the second proviso of section 513 of Public Law 108–334 has not been implemented.

[SEC. 513. The Commandant of the Coast Guard shall provide to the Committee on Appropriations of the House of Representatives each year, at the time that the President's budget is submitted under section 1105(a) of title 31, United States Code, a list of approved but unfunded Coast Guard priorities and the funds needed for each such priority in the same manner and with the same contents as the unfunded priorities lists submitted by the chiefs of other Armed Services.

[SEC. 514. Notwithstanding section 3302 of title 31, United States Code, beginning in fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.

[SEC. 515. Beginning in fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.

[SEC. 516. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of the Under Secretary for Management, the Bureau of Immigration and Customs Enforcement, the Directorate of Science and Technology, and the Directorate of Information Analysis and Infrastructure Protection of the Department of Homeland Security is transferred to the Department of Homeland Security: *Provided*, That on request of the Department of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: *Provided further*, That this section shall cease to be effective at such time as the President has selected a single agency to conduct security clearance investigations pursuant to section 3001(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 50 U.S.C. 435b) and the entity selected under section 3001(b) of such Act has reported to Congress that the agency selected pursuant to such section 3001(c) is capable of conducting all necessary investigations in a timely manner or has authorized the entities within the Department of Homeland Security covered by this section to conduct their own investigations pursuant to section 3001 of such Act.

[SEC. 517. Notwithstanding any other provision of law, funds appropriated under paragraphs (1) and (2) of the State and Local Programs heading under title III of this Act are exempt from section 6503(a) of title 31, United States Code.

[SEC. 518. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening programs, until the Secretary of Homeland Security certifies, and the Government Accountability Office (GAO) reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the elements contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 have been successfully met.

[(b) The report required by subsection (a) shall be submitted within 90 days after the certification required by such subsection is provided, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten elements have been successfully met.

[(c) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a government watch list.

[(d) None of the funds provided in this or any previous appropriations Act may be utilized to develop or test algorithms assigning risk to passengers whose names are not on government watch lists.

[(e) None of the funds provided in this appropriations Act may be utilized for a database that is obtained from or remains under the control of a non-Federal entity.

[SEC. 519. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

[SEC. 520. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

[SEC. 521. None of the funds available in this Act or provided hereafter shall be available to maintain the United States Secret Service as anything but a distinct entity within the Department of Homeland Security and shall not be used to merge the United States Secret Service with any other department function, cause any personnel and operational elements of the United States Secret Service to report to an individual other than the Director of the United States Secret Service, or cause the Director to report directly to any individual other than the Secretary of Homeland Security.

[SEC. 522. The Secretary of Homeland Security shall develop screening standards and protocols to more thoroughly screen all types of air cargo on passenger and cargo aircraft by March 1, 2006: *Provided*, That

these screening standards and protocols shall be developed in consultation with the industry stakeholders: *Provided further*, That these screening standards and protocols shall be developed in conjunction with the research and development of technologies that will permit screening of all high-risk air cargo: *Provided further*, That of the amounts appropriated in this Act for the ''Office of the Secretary and Executive Management'', $10,000,000 shall not be available for obligation until new air cargo screening standards and protocols are implemented.

[SEC. 523. The Transportation Security Administration (TSA) shall utilize existing checked baggage explosive detection equipment and screeners to screen cargo carried on passenger aircraft to the greatest extent practicable at each airport: *Provided*, That beginning with November 2005, TSA shall provide a monthly report to the Committee on Appropriations of the House of Representatives detailing, by airport, the amount of cargo carried on passenger aircraft that was screened by TSA in August 2005 and each month thereafter.

[SEC. 524. The Secretary of Homeland Security shall implement a security plan to permit general aviation aircraft to land and take off at Ronald Reagan Washington National Airport 90 days after enactment of this Act.

[SEC. 525. None of the funds available for obligation for the transportation worker identification credential program shall be used to develop a personalization system that is decentralized or a card production capability that does not utilize an existing government card production facility: *Provided*, That no funding can be obligated for the next phase of production until the Committee on Appropriations of the House of Representatives has been fully briefed on the results of the prototype phase and agrees that the program should move forward.

[SEC. 526. (a) From the unexpended balances of the United States Coast Guard ''Acquisition, Construction and Improvements'' account specifically identified in statement of managers language for Integrated Deepwater System patrol boats 110- to 123-foot conversion in fiscal years 2004 and 2005, $83,999,942 are rescinded.

[(b) For the necessary expenses of the United States Coast Guard for ''Acquisition, Construction and Improvements'', $83,999,942 is made available to procure new 110-foot patrol boats or for major maintenance availability for the current 110-foot patrol boat fleet: *Provided*, That such funds shall remain available until expended.

[SEC. 527. The Secretary of Homeland Security shall utilize the Transportation Security Clearinghouse as the central identity management system for the deployment and operation of the registered traveler program, the transportation worker identification credential program, and other applicable programs for the purposes of collecting and aggregating biometric data necessary for background vetting; providing all associated record-keeping, customer service, and related functions; ensuring interoperability between different airports and vendors; and acting as a central activation, revocation, and transaction hub for participating airports, ports, and other points of presence.

[SEC. 528. None of the funds made available in this Act may be used by any person other than the privacy officer appointed pursuant to section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) to alter, direct that changes be made to, delay or prohibit the transmission to Congress of, any report prepared pursuant to paragraph (5) of such section.

[SEC. 529. No funding provided in this or previous appropriations Acts shall be available to pay the salary of any employee serving as a contracting officer's technical representative (COTR) who has not received COTR training.

[SEC. 530. Except as provided in section 44945 of title 49, United States Code, funds appropriated or transferred to the Transportation Security Administration in fiscal years 2002 and 2003, and to the Transportation Security Administration, ''Aviation Security'' and ''Administration'' in fiscal years 2004 and 2005, that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems.

[SEC. 531. From the unobligated balances available in the ''Department of Homeland Security Working Capital Fund'' established by section 506 of Public Law 108–90, $7,000,000 are hereby rescinded.

[SEC. 532. Notwithstanding any other provision of law, the Committee withholds from obligation $25,000,000 from the Directorate of Emergency Preparedness and Response, Administrative and Regional Operations, until the direction in the statement of managers accompanying Public Law 108–324 and House Report 108–541 is completed.

[SEC. 533. None of the funds appropriated under this Act or any other Act shall be available for processing petitions under section 214(c) of the Immigration and Nationality Act relating to nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act until the authority provided in section 214(g)(5)(C) of such Act is being implemented such that, in any fiscal year in which the total number of aliens who are issued visas or otherwise provided nonimmigrant status subject to the numerical limitation under section 101(a)(15)(H)(i)(b) of such Act reaches the numerical limitation contained in section 214(g)(1)(A) of such Act,, up to 20,000 additional aliens who have earned a master's or higher degree from an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) may be issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of the Immigration and Nationality Act.

[SEC. 534. None of the funds provided in this Act shall be used to pay the salaries of more than sixty Transportation Security Administration employees who have the authority to designate documents as Sensitive Security Information (SSI). In addition, $10,000,000 is not available for the Department-wide Office of Security until the Secretary submits to the Committee on Appropriations of the House of Representatives: (1) the titles of all documents currently designated as SSI; (2) Department-wide policies on SSI designation; (3) Department-wide SSI designation auditing policies and procedures; and (4) the total number of staff and offices authorized to designate SSI documents within the Department.

[SEC. 535. None of the funds appropriated by this Act may be used to change the name of the Coast Guard Station ''Group St. Petersburg''.

[SEC. 536. None of the funds appropriated or otherwise made available by this Act may be used to patrol the border of the United States except as authorized by law.

[SEC. 537. For the Secretary of Homeland Security to make grants pursuant to section 204 of the REAL ID Act of 2005 (Public Law 109–13, division B) to assist States in conforming with minimum drivers' license standards there is hereby appropriated; and the amounts otherwise provided by this Act for ''Office of the Secretary and Executive Management'', ''Office of the Under Secretary for Management'', ''Office of the Under Secretary for Border and Transportation Security—Salaries and Expenses'', ''Information Analysis and Infrastructure Protection—Management and Administration'', and ''Science and Technology—Research, Development, Acquisition and Operations'', are hereby reduced by: $100,000,000, $20,000,000, $20,000,000, $2,000,000, $8,000,000, and $50,000,000, respectively.

[This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2006''.]

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 102 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $124,620,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses.

OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701–705 of the Homeland Security Act of 2002 (6 U.S.C. 341–345), $146,322,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses: Provided further, That of the total amount provided, $26,070,000 shall remain available until expended solely for the alteration and improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

DEPARTMENT OF HOMELAND SECURITY WORKING CAPITAL FUND

(RESCISSION OF FUNDS)

Of the unobligated balances available in the ''Department of Homeland Security Working Capital Fund'', $12,000,000 are rescinded.

OFFICE OF THE CHIEF FINANCIAL OFFICER

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), $18,325,000.

OFFICE OF THE CHIEF INFORMATION OFFICER

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $286,540,000; of which $75,756,000 shall be available for salaries and expenses; and of which $210,784,000 shall be available for development and acquisition of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the cost for operation of the land mobile radio legacy systems, to remain available until expended: Provided, That of the funds made available until expended under this heading, no more than $33,029,000 shall be for the Homeland Secure Data Network: Provided further, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after enactment of the Act, an expenditure plan for all information technology projects that: (1) are funded by the ''Office of the Chief Information Officer'', or (2) are funded by multiple components of the Department of Homeland Security

through reimbursable agreements: Provided further, That such expenditure plan shall include each specific project funded, key milestones, all funding sources for each project, details of annual and lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project: Provided further, That the expenditure plan shall include a complete list of all legacy systems operational as of March 1, 2003; the current operational status of each system; and the plan for continued operation or termination of each system.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978 (5 U.S.C. App.), $83,017,000, of which not to exceed $100,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

BORDER AND TRANSPORTATION SECURITY

OFFICE OF THE UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Under Secretary for Border and Transportation Security, as authorized by subtitle A of title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.), $9,617,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1221 note), $340,000,000, to remain available until expended: Provided, That of the total amount made available under this heading, $159,658,000 may not be obligated for the United States Visitor and Immigrant Status Indicator Technology project until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security enterprise information systems architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for enforcement of laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal imports; acquisition, lease, maintenance and operation of aircraft; purchase and lease of up to 4,500 (3,935 for replacement only) police-type vehicles; and contracting with individuals for personal services abroad; $4,922,600,000; of which $3,000,000 shall be derived from the Harbor Maintenance Trust Fund for administrative expenses related to the collection of the Harbor Maintenance Fee pursuant to section 9505(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 9505(c)(3)) and notwithstanding section 1511(e)(1) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)(1)); of which not to exceed $35,000 shall be for official reception and representation expenses; of which not less than $146,560,000 shall be for Air and Marine Operations; of which not to exceed $49,980,000 shall remain available until September 30, 2007, for inspection and surveillance technology, unmanned aerial vehicles, and replacement aircraft; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)(3)), shall be derived from that account; of which not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; and of which not to exceed $5,000,000 shall be available for payments or advances arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to immigration: Provided, That for fiscal year 2006, the overtime limitation prescribed in section 5(c)(1) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated in this Act may be available to compensate any employee of United States Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, to be necessary for national security purposes, to prevent excessive costs, or in cases of immigration emergencies.

In addition, of the funds appropriated under the heading ''Customs and Border Protection'' in chapter 6 of title I of Public Law 108–11 (117 Stat. 581), $14,400,000 are rescinded.

AUTOMATION MODERNIZATION

For expenses for customs and border protection automated systems, $458,009,000, to remain available until expended, of which not less than $321,690,000 shall be for the development of the Automated Commercial Environment: Provided, That none of the funds made available under this heading may be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security's enterprise information systems architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and demand reduction programs, the operations of which include the following: the interdiction of narcotics and other goods; the provision of support to Federal, State, and local agencies in the enforcement or administration of laws enforced by the Department of Homeland Security; and at the discretion of the Secretary of Homeland Security, the provision of assistance to Federal, State, and local agencies in other law enforcement and emergency humanitarian efforts, $320,580,000, to remain available until expended: Provided, That no aircraft or other related equipment, with the exception of aircraft that are one of a kind and have been identified as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2006 without the prior approval of the Committees on Appropriations of the Senate and the House of Representatives.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $311,381,000, to remain available until expended: Provided, That of the total amount provided under this heading, $55,000,000 shall be available solely for the completion of the San Diego Sector fence and $55,000,000 shall be available solely for Tuscon sector tactical infrastructure.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For necessary expenses for enforcement of immigration and customs laws, detention and removals, and investigations; and purchase and lease of up to 2,300 (2,000 for replacement only) police-type vehicles, $3,050,416,000, of which not to exceed $5,000,000 shall be available until expended for conducting special operations pursuant to section 3131 of the Customs Enforcement Act of 1986 (19 U.S.C. 2081); of which not to exceed $15,000 shall be for official reception and representation expenses; of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security; of which not less than $102,000 shall be for promotion of public awareness of the child pornography tipline; of which not less than $203,000 shall be for Project Alert; and of which not to exceed $11,216,000 shall be available to fund or reimburse other Federal agencies for the costs associated with the care, maintenance, and repatriation of smuggled illegal aliens: Provided, That none of the funds made available under this heading shall be available to compensate any employee for overtime in an annual amount in excess of $35,000, except that the Secretary of Homeland Security, or the designee of the Secretary, may waive that amount as necessary for national security purposes and in cases of immigration emergencies: Provided further, That of the total amount provided, $15,770,000 shall be for activities to enforce laws against forced child labor in fiscal year 2006, of which not to exceed $6,000,000 shall remain available until expended.

FEDERAL AIR MARSHALS

For necessary expenses of the Federal Air Marshals, $678,994,000.

FEDERAL PROTECTIVE SERVICE

The revenues and collections of security fees credited to this account, not to exceed

$487,000,000, shall be available until expended for necessary expenses related to the protection of federally-owned and leased buildings and for the operations of the Federal Protective Service.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $50,150,000, to remain available until expended: Provided, That none of the funds made available under this heading may be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that:

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7;

(2) complies with the Department of Homeland Security enterprise information systems architecture;

(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;

(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;

(5) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and

(6) is reviewed by the Government Accountability Office.

CONSTRUCTION

For necessary expenses to plan, construct, renovate, equip, and maintain buildings and facilities necessary for the administration and enforcement of the laws relating to customs and immigration, $26,546,000, to remain available until expended.

TRANSPORTATION SECURITY ADMINISTRATION

AVIATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing civil aviation security services pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $4,452,318,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $3,391,948,000 shall be for screening operations, of which $180,000,000 shall be available only for procurement of checked baggage explosive detection systems and $14,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $1,060,370,000 shall be for aviation security direction and enforcement presence: Provided further, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: Provided further, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,462,318,000: Provided further, That any security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2007: Provided further, That if the Secretary of Homeland Security exercises discretion to set the fee under 44940(a)(2) of title 49 United States Code, such determination shall not be subject to judicial review: Provided further, That notwithstanding section 503 of this Act, the Transportation Security Administration may reallocate funding provided under this heading from passenger and baggage screener pay, compensation, and benefits to procurement and installation of screening technology with fifteen days advance notification to the Committees on Appropriations of the Senate and House of Representatives: Provided further, That notwithstanding section 44923 of title 49, United States Code, the share of the cost of the Federal Government for a project under any letter of intent shall be 75 percent for any medium or large hub airport: Provided further, That heads of Federal agencies and commissions shall not be exempt from Federal passenger and baggage screening: Provided further, That reimbursement for security services and related equipment and supplies provided in support of general aviation access to the Ronald Reagan Washington National Airport shall be credited to this appropriation and shall be available until expended solely for these purposes.

SURFACE TRANSPORTATION SECURITY

For necessary expenses of the Transportation Security Administration related to providing surface transportation activities, $36,000,000.

TRANSPORTATION VETTING AND CREDENTIALING

For necessary expenses for the development and implementation of screening programs by the Office of Transportation Vetting and Credentialing, $74,996,000.

TRANSPORTATION SECURITY SUPPORT

For necessary expenses of the Transportation Security Administration related to providing security support and intelligence pursuant to the Aviation and Transportation Security Act (Public Law 107–71; 115 Stat. 597; 49 U.S.C. 40101 note), $491,873,000.

UNITED STATES COAST GUARD

OPERATING EXPENSES

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for the operation and maintenance of the United States Coast Guard not otherwise provided for, purchase or lease of not to exceed 25 passenger motor vehicles for replacement only, payments pursuant to section 156 of Public Law 97–377 (42 U.S.C. 402 note) and recreation and welfare, $5,476,046,000, of which $1,200,000,000 shall be for defense-related activities; of which $24,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); and of which not to exceed $3,000 shall be for official reception and representation expenses: Provided, That none of the funds made available by this or any other Act shall be available for administrative expenses in connection with shipping commissioners in the United States: Provided further, That none of the funds made available by this Act shall be for expenses incurred for yacht documentation under section 12109 of title 46, United States Code, except to the extent fees are collected from yacht owners and credited to this appropriation.

In addition, of the funds appropriated under this heading in Public Law 108–11 (117 Stat. 583), $16,800,000 are rescinded.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the environmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $12,000,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $119,000,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

(INCLUDING RESCISSIONS OF FUNDS)

For necessary expenses of acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $1,224,800,000, of which $20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)); of which $18,500,000 shall be available until September 30, 2010, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $105,000,000 shall be available until September 30, 2008, for other equipment; of which $39,700,000 shall be available until September 30, 2008, for shore facilities and aids to navigation facilities; of which $73,000,000 shall be available for personnel compensation and benefits and related costs; and of which $988,600,000 shall be available until September 30, 2010, for the Integrated Deepwater Systems program: Provided, That the Commandant of the Coast Guard is authorized to dispose of surplus real property, by sale or lease, and the proceeds shall be credited to this appropriation as offsetting collections and shall be available until September 30, 2008.

In addition, of the funds made available under this heading in Public Law 108–334 (118 Stat. 1306) for covert aircraft, $13,999,000 are rescinded; and of the funds appropriated under this heading in Public Laws 108–334 (118 Stat. 1306) and 108–90 (117 Stat. 1143) for patrol boat (110 foot to 123 foot conversion) and Fast Response Cutter/110–123 foot patrol boat conversion, $68,999,000 are rescinded.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $15,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation, and for maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $18,500,000, to remain available until expended, of which $2,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)): Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career status bonuses, concurrent receipts and combat-related special compensation under the National Defense Authorization Act, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $1,014,080,000.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase of not to exceed 614 vehicles for police-type use, which shall be for replacement only, and hire of passenger motor vehicles; purchase of American-made motorcycles; hire of aircraft; services of expert witnesses at such rates as may be determined by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches; presentation of awards; travel of Secret Service employees on protective missions without regard to

the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research in support of protective research and operations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $1,188,638,000, of which not to exceed $25,000 shall be for official reception and representation expenses; of which not to exceed $100,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; of which $2,100,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $5,000,000 shall be a grant for activities related to the investigations of missing and exploited children and shall remain available until expended: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2007: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $3,699,000, to remain available until expended.

TITLE III—PREPAREDNESS AND RECOVERY

OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For necessary expenses for the Office of State and Local Government Coordination and Preparedness, $3,546,000: Provided, That not to exceed $2,000 shall be for official reception and representation expenses.

STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,694,300,000, which shall be allocated as follows:

(1) $1,518,000,000 for State and local grants, of which $425,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for formula-based grants: Provided, That the balance shall be allocated by the Secretary of Homeland Security to States, urban areas, or regions based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to Homeland Security Presidential Directive 8 (HSPD–8).

(2) $400,000,000 for law enforcement terrorism prevention grants, of which $155,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for law enforcement terrorism prevention grants: Provided, That the balance shall be allocated by the Secretary to States based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to HSPD–8.

(3) $365,000,000 for discretionary transportation and infrastructure grants, as determined by the Secretary, of which—

(A) $200,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(B) $5,000,000 shall be for trucking industry security grants;

(C) $10,000,000 shall be for intercity bus security grants;

(D) $100,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(E) $50,000,000 shall be for buffer zone protection plan grants.

(4) $50,000,000 for the technology transfer program.

(5) $40,000,000 for State grants pursuant to section 204(a) of the REAL ID Act of 2005 (Division B of Public Law 109–13), to remain available until expended, as determined by the Secretary: Provided, That none of the funds made available under this paragraph may be obligated or allocated for grants until the Committees on Appropriations of the Senate and the House of Representatives receive and approve an implementation plan for the responsibilities of the Department of Homeland Security under the REAL ID Act of 2005 (Division B of Public Law 109–13), including the proposed uses of the grant monies.

(6) $321,300,000 for training, exercises, technical assistance, and other programs:

Provided, That not to exceed 3 percent of the amounts provided for grants under this heading shall be available for program administration: Provided further, That the Government Accountability Office shall review the validity of the threat and risk factors used by the Secretary for the purposes of allocating discretionary grants funded under this heading, and the application of those factors in the allocation of funds prior to the Department making final grant determinations: Provided further, That the Government Accountability Office shall have 20 days to complete its review after it is notified by the Secretary that preliminary determinations have been made, and the Government Accountability Office shall report to the Committees on Appropriations of the Senate and the House of Representatives on the findings of its review prior to the Department making final grant determinations: Provided further, That none of the grants provided under this heading shall be used for construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary: Provided further, That the preceding proviso shall not apply to grants under subparagraphs (A), (D), and (E) of paragraph (3) under this heading: Provided further, That grantees shall provide additional reports on their use of funds, as determined necessary by the Secretary: Provided further, That funds appropriated for discretionary grants under paragraph (1) and law enforcement terrorism prevention grants under paragraph (2) of this heading shall be available for operational costs, to include personnel overtime and overtime associated with Office of State and Local Government Coordination and Preparedness certified training, as needed: Provided further, That notwithstanding any other provision of law, funds appropriated under paragraphs (1), (2), and (3) of this heading are exempt from section 6503(a) of title 31, United States Code: Provided further, That of the funds provided under paragraph (1) of this heading, $25,000,000 shall be available until expended for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax section 501(a) of such Code) determined by the Secretary to be at high-risk of international terrorist attack, and that these determinations shall not be delegated to any Federal, State, or local government official: Provided further, That the Secretary shall certify to the Committees on Appropriations of the Senate and the House of Representatives the threat to each designated tax exempt grantee at least 3 full business days in advance of the announcement of any grant award.

FIREFIGHTER ASSISTANCE GRANTS

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $615,000,000, of which $550,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $65,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of such Act, to remain available until September 30, 2007: Provided, That not to exceed 5 percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS

For necessary expenses for emergency management performance grants, as authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), $180,000,000: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

COUNTERTERRORISM FUND

For necessary expenses, as determined by the Secretary of Homeland Security, to reimburse any Federal agency for the costs of providing support to counter, investigate, or respond to unexpected threats or acts of terrorism, including payment of rewards in connection with these activities, $5,000,000, to remain available until expended: Provided, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives 15 days prior to the obligation of any amount of these funds in accordance with section 503 of this Act.

EMERGENCY PREPAREDNESS AND RESPONSE

OFFICE OF THE UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE

For necessary expenses for the Office of the Under Secretary for Emergency Preparedness and Response, as authorized by section 502 of the Homeland Security Act of 2002 (6 U.S.C. 312), $4,306,000.

PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses for preparedness, mitigation, response, and recovery activities of Emergency Preparedness and Response, $203,499,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That of the total amount made available under this heading, $30,000,000 shall be for Urban Search and Rescue Teams, of which not to exceed $1,600,000 may be made available for administrative costs.

In addition, of the funds appropriated under this heading in Public Law 108–334 (118 Stat. 1311), $9,600,000 are rescinded.

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations of Emergency Preparedness and Response, $216,441,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), the Defense Production Act of 1950 (50 U.S.C. App. 2061 et

seq.), sections 107 and 303 of the National Security Act of 1947 (50 U.S.C. 404, 405), Reorganization Plan No. 3 of 1978 (5 U.S.C. App.), and the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.): Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

PUBLIC HEALTH PROGRAMS

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $34,000,000.

RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charges assessed during fiscal year 2006, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (42 U.S.C. 5196e), shall not be less than 100 percent of the amounts anticipated by the Department of Homeland Security necessary for its radiological emergency preparedness program for the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including administrative costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for authorized purposes on October 1, 2006, and remain available until expended.

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $2,000,000,000, to remain available until expended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses to carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $567,000: Provided, That gross obligations for the principal amount of direct loans shall not exceed $25,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

FLOOD MAP MODERNIZATION FUND

For necessary expenses pursuant to section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101), $200,000,000, and such additional sums as may be provided by State and local governments or other political subdivisions for cost-shared mapping activities under section 1360(f)(2) of such Act, to remain available until expended: Provided, That total administrative costs shall not exceed 3 percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), not to exceed $36,496,000 for salaries and expenses associated with flood mitigation and flood insurance operations; and not to exceed $87,358,000 for flood hazard mitigation, to remain available until September 30, 2007, including up to $28,000,000 for expenses under section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), which amount shall be available for transfer to the National Flood Mitigation Fund until September 30, 2007, and which amount shall be derived from offsetting collections assessed and collected pursuant to section 1307 of that Act (42 U.S.C. 4014), and shall be retained and used for necessary expenses under this heading: Provided, That in fiscal year 2006, no funds in excess of: (1) $55,000,000 for operating expenses; (2) $660,148,000 for commissions and taxes of agents; and (3) $30,000,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund.

NATIONAL FLOOD MITIGATION FUND

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (f), of section 1366 of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $28,000,000, to remain available until September 30, 2007, for activities designed to reduce the risk of flood damage to structures pursuant to such Act, of which $28,000,000 shall be derived from the National Flood Insurance Fund.

NATIONAL PREDISASTER MITIGATION FUND

For a predisaster mitigation grant program under title II of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5131 et seq.), $37,000,000, to remain available until expended: Provided, That grants made for predisaster mitigation shall be awarded on a competitive basis subject to the criteria in section 203(g) of such Act (42 U.S.C. 5133(g)), and notwithstanding section 203(f) of such Act, shall be made without reference to State allocations, quotas, or other formula-based allocation of funds: Provided further, That total administrative costs shall not exceed 3 percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.), $153,000,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLE IV—RESEARCH AND DEVELOPMENT, TRAINING, ASSESSMENTS, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $80,000,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including materials and support costs of Federal law enforcement basic training; purchase of not to exceed 117 vehicles for police-type use and hire of passenger motor vehicles; expenses for student athletic and related activities; the conduct of and participation in firearms matches and presentation of awards; public awareness and enhancement of community support of law enforcement training; room and board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile phones for official duties; and services as authorized by section 3109 of title 5, United States Code; $194,000,000, of which up to $36,174,000 for materials and support costs of Federal law enforcement basic training shall remain available until September 30, 2007; and of which not to exceed $12,000 shall be for official reception and representation expenses: Provided, That the Center is authorized to obligate funds in anticipation of reimbursements from agencies receiving training sponsored by the Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available at the end of the fiscal year: Provided further, That in fiscal year 2006 and thereafter, the Director of the Federal Law Enforcement Training Center is authorized to assess pecuniary liability against Center employees and students for losses or destruction of Government property due to gross negligence or willful misconduct and to set off any resulting debts due the United States by Center employees and students, without their consent, against current payments due the employees and students for their services.

ACQUISITIONS, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition of necessary additional real property and facilities, construction, and ongoing maintenance, facility improvements, and related expenses of the Federal Law Enforcement Training Center, $88,358,000, to remain available until expended: Provided, That the Center is authorized to accept reimbursement to this appropriation from Government agencies requesting the construction of special use facilities.

INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Information Analysis and Infrastructure Protection and for management and administration of programs and activities, as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $168,769,000: Provided, That not to exceed $5,000 shall be for official reception and representation expenses.

ASSESSMENTS AND EVALUATIONS

For necessary expenses for information analysis and infrastructure protection as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $701,793,000, to remain available until September 30, 2007.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Science and Technology and for management and administration of programs and activities, as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $81,099,000: Provided, That not to exceed $3,000 shall be for official reception and representation expenses.

RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS

For necessary expenses for science and technology research, including advanced research projects; development; test and evaluation; acquisition; and operations; as authorized by title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), $1,372,399,000, to remain available until expended: Provided, That of the total amount made available under this heading, $127,314,000 shall be for the Domestic Nuclear Detection Office, of which $112,314,000 shall not be available for obligation until the Secretary of Homeland Security submits a staffing and management plan and an expenditure plan for the office and the global systems architecture, to include multi-year costs, that has been reviewed by the Government Accountability Office and approved by the Committees on Appropriations of the Senate and the House of Representatives: Provided further, That of the total funds made available under this heading, $125,000,000 is solely for the purchase and deployment of radiation portal monitors for United States ports-of-entry and may not be transferred or reprogrammed.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the ''Department of Homeland Security Working Capital Fund'', except for the activities and amounts allowed in section 6024 of Public Law 109–13, excluding the Homeland Secure Data Network: Provided, That any additional activities and amounts must be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 503. (a) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that: (1) creates a new program; (2) eliminates a program, project, or activity; (3) increases funds for any program, project, or activity for which funds have been denied or restricted by the Congress; (4) proposes to use

funds directed for a specific activity by either of the Committees on Appropriations of the Senate or House of Representatives for a different purpose; or (5) contracts out any functions or activities for which funds have been appropriated for Federal full-time equivalent positions; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(b) None of the funds provided by this Act, provided by previous appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by the Congress; or (3) results from any general savings from a reduction in personnel that would result in a change in existing programs, projects, or activities as approved by the Congress; unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such reprogramming of funds.

(c) Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, shall be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be available for obligation unless the Committees on Appropriations of the Senate and the House of Representatives are notified 15 days in advance of such transfer.

(d) Notwithstanding subsections (a), (b), and (c) of this section, no funds shall be reprogrammed within or transferred between appropriations after June 30, except in extraordinary circumstances which imminently threaten the safety of human life or the protection of property.

(e) Notwithstanding any other provision of law, notifications pursuant to this section or any other authority for reprogramming or transfer of funds shall be made solely to the Committees on Appropriations of the Senate and the House of Representatives.

SEC. 504. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining available at the end of fiscal year 2006 from appropriations for salaries and expenses for fiscal year 2006 in this Act shall remain available through September 30, 2007, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 505. Funds made available by this Act for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2006 until the enactment of an Act authorizing intelligence activities for fiscal year 2006.

SEC. 506. None of the funds in this Act may be used to make a grant allocation, discretionary grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security notifies the Committees on Appropriations of the Senate and the House of Representatives at least 3 full business days in advance: Provided, That no notification shall involve funds that are not available for obligation.

SEC. 507. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 508. The Director of the Federal Law Enforcement Training Center shall schedule basic and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that these training centers are operated at the highest capacity throughout the fiscal year.

SEC. 509. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a prospectus, if required by the Public Buildings Act of 1959 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed prospectus.

SEC. 510. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 511. The Secretary of Homeland Security is directed to research, develop, and procure certified systems to inspect and screen air cargo on passenger aircraft at the earliest date possible: Provided, That until such technology is procured and installed, the Secretary shall take all possible actions to enhance the known shipper program to prohibit high-risk cargo from being transported on passenger aircraft and continue to increase the level of air cargo that is inspected beyond the level mandated in section 513 of Public Law 108–334.

SEC. 512. Notwithstanding section 3302 of title 31, United States Code, for fiscal year 2006 and thereafter, the Administrator of the Transportation Security Administration may impose a reasonable charge for the lease of real and personal property to Transportation Security Administration employees and for use by Transportation Security Administration employees and may credit amounts received to the appropriation or fund initially charged for operating and maintaining the property, which amounts shall be available, without fiscal year limitation, for expenditure for property management, operation, protection, construction, repair, alteration, and related activities.

SEC. 513. For fiscal year 2006 and thereafter, the acquisition management system of the Transportation Security Administration shall apply to the acquisition of services, as well as equipment, supplies, and materials.

SEC. 514. (a) None of the funds provided by this or previous appropriations Acts may be obligated for deployment or implementation, on other than a test basis, of the Secure Flight program or any other follow on or successor passenger prescreening programs, until the Secretary of Homeland Security certifies, and the Government Accountability Office reports, to the Committees on Appropriations of the Senate and the House of Representatives, that all ten of the elements contained in paragraphs (1) through (10) of section 522(a) of Public Law 108–334 (118 Stat. 1319) have been successfully met.

(b) The report required by subsection (a) shall be submitted within 90 days after the certification required by such subsection is provided, and periodically thereafter, if necessary, until the Government Accountability Office confirms that all ten elements have been successfully met.

(c) During the testing phase permitted by subsection (a), no information gathered from passengers, foreign or domestic air carriers, or reservation systems may be used to screen aviation passengers, or delay or deny boarding to such passengers, except in instances where passenger names are matched to a Government watch list.

(d) None of the funds provided in this or previous appropriations Acts may be utilized to develop or test algorithms assigning risk to passengers whose names are not on Government watch lists.

(e) None of the funds provided in this or previous appropriations Acts may be utilized for a database that is obtained from or remains under the control of a non-Federal entity.

SEC. 515. None of the funds made available in this Act may be used to amend the oath of allegiance required by section 337 of the Immigration and Nationality Act (8 U.S.C. 1448).

SEC. 516. None of the funds appropriated by this Act may be used to process or approve a competition under Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees (including employees serving on a temporary or term basis) of United States Citizenship and Immigration Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Assistants.

SEC. 517. None of the funds appropriated to the United States Secret Service by this Act or by previous appropriations Acts may be made available for the protection of the head of a Federal agency other than the Secretary of Homeland Security: Provided, That the Director of the United States Secret Service may enter into an agreement to perform such service on a fully reimbursable basis.

SEC. 518. The Department of Homeland Security processing and data storage facilities at the John C. Stennis Space Center shall hereafter be known as the ''National Center for Critical Information Processing and Storage''.

This Act may be cited as the ''Department of Homeland Security Appropriations Act, 2006''.

Mr. GREGG. Mr. President, I ask unanimous consent that the following Appropriations Committee staff members and interns be granted the privilege of the floor during the consideration of the fiscal year 2006 Homeland Security appropriations bill and any votes that may occur in relation thereto: Shannon O'Keefe, Carol Cribbs, Kimberly Nelson, James Hayes, Avery Forbes, Carolina Poarch, Pete Flynn, Jonathan Cahoon, and Will Post.

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

Under the previous order, the committee substitute is agreed to and considered as original text for the purpose of amendment.

The committee amendment, in the nature of a substitute, was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, we turn now to the Homeland Security bill. This is obviously a timely period for taking up this legislation in light of what has happened in London. We recognize, once again, as a result of the heinous crimes that were committed in London that there are people out there who totally disregard innocent life and who are willing to kill innocent individuals simply for the purpose of making a political statement as to what

their cause is or what their presumed cause may be.

Of course, we were, unfortunately, focused on this fact by 9/11, but maybe over the last 2 or 3 years the success of our Nation in resisting attacks has caused a touch of complacency in this area. However, London has to clearly remind us that complacency cannot be tolerated when it comes to fighting these people who call themselves Islamic fundamentalists and who are essentially killers, terrorists, murderers without any moral creed or cause, and whose actions are totally unjustified in any form of civilized society.

The Department of Homeland Security was set up in the post-9/11 world in order to try as a nation to get our arms around the issue of how we can best protect us in the United States of America. It was set up in the context of other agencies that have responsibility for other areas of protecting us relative to this war on terrorism.

Of course, we have our Defense Department which is, through its extraordinary men and women, pursuing the fight against terrorism in Afghanistan and in Iraq. We also have agencies, such as the Central Intelligence Agency, the FBI, and the Justice Department, that are committed to making sure they obtain the intelligence necessary to protect us. But within this umbrella of agencies which are trying to pursue this war on terrorism, there is included, of course, the Department of Homeland Security.

The Department of Homeland Security was put together as an amalgamation of different agencies. I think there were 22 initially that were thrown together. Some of those agencies, when they were put into the Department of Homeland Security, were already functioning extraordinarily well and had a track record of success. Some of the other agencies had a spotty track record. Regrettably, some of the agencies did not have a very good track record at all. But they were brought together for the purposes of trying to involve a coordinated effort in the area of fighting terrorism.

I believe we have to recognize, as we pursue this fight on terrorism, that the people we are fighting are driven by a philosophy which we as a rational society, especially as a Western society, find hard to fathom. The concept that you would kill innocent civilians simply for the purpose of making a point is something which we find repugnant and almost incomprehensible. But that is the nature of the people we fight. We have to understand their purpose is not necessarily to win a global war in the sense it has historically been perceived, such as World War I or World War II, or even the Cold War. Their purpose essentially is to assert their culture in a way that destroys any culture which they perceive as alien to it, to assert their religion in a way in which they perceive destroys any religion which they see as alien to it, or any group of states which they see as alien to it. They are willing to pursue this with fanaticism which allows them to develop individuals and attitudes where people will strap bombs to themselves and attack us or where they attack innocent individuals, as they did in London. And thus, the threat is a threat of immense proportion, and it is a threat which we have to pursue in a different way than we have pursued other threats that have confronted our Nation.

We all understand this, but executing it has become difficult. I believe we have not yet grasped as a nation how we execute in defending ourselves from this type of threat. What we know is this, and our approach must be tempered by it: We know we can order the priority of the threats as they reflect relative to us. We know, for example, if these individuals get their hands on a weapon of mass destruction—chemical, biological or, God forbid, a nuclear-capable weapon—that they will use that weapon. They will use it in a way which kills tens of thousands, essentially hundreds of thousands of innocent individuals. So we know that is the No. 1 threat we must confront.

We know also that as a nation, because we are a democracy and because we are an open nation and because we seek to participate in the world in an open and vibrant way, our borders are porous and that access into this country is easy, and that represents, regrettably now, a threat to us.

We know also that because we are such an open society and because we are a society which is built around the concept of individual responsibility and people being able to go out in the world and participate in activities, that we have innumerable areas of infrastructure, areas of individual participation and activity which are open to attack, such as occurred in London. And that is an issue of threat.

What we have attempted to do in this bill is take the resources we have and focus them on a threat-based approach so that we basically focus the most resources on the area where we see the greatest threat. The way we structured this bill is that we are focusing most of the energy of this bill, most of dollars in this bill, in two primary areas, as far as new dollars are concerned. We are still spending a lot of dollars in a lot of different places, but the new initiatives in this bill are focused on trying to better get a handle on defending ourselves from an attack by a weapon of mass destruction and, secondly, making our borders, which are inordinately porous, less porous and having better accountability as to who is coming into this country and what their purposes are.

We moved a fair amount of money in this bill to try to accomplish those two basic philosophical goals of addressing those two items of threat. That does not mean we underfunded anything in this bill that was already on the board. But it does mean we tried to focus this bill a little bit better.

Within this legislation there are a lot of different agencies. As I mentioned earlier, some of them are functioning extraordinarily well, some are functioning in between, and some simply are not doing as good a job as we hoped they could do. Regrettably, this agency, even though it has only been around for 2 years, has had over 486 reports written about it by either the inspector general, the CRS, or the GAO. I brought them with me because I think they are so staggering in their proportions it is worth looking at in physical proportions the number of reports. There are three piles. If we take one pile, which I probably cannot pick up, and put it on top of another pile—it will all fall over, unfortunately—we end up with almost 3 feet 9 inches of reports about things not going that well at the Homeland Security Department. Each one of these reports is substantive. Each one of these reports is worth review and requires action. They reflect the fact that almost 3 years after this Department was put together, the Department has some very serious problems, and they need to be addressed.

I congratulate the new Secretary, Mr. Chertoff, for his approach to trying to get a handle on some of these problems. He is going to report to us Wednesday or Thursday on what his second stage review is. He put a lot of time into this, but I think his approach will probably be based on the concept that we have to have, first, a policy-driven approach and, second, it has to be systemwide. Today, there is too much anecdotal reaction in the Department, there is too much haphazard reaction, there is too much reaction to the crisis of the day. I think his approach is going to be to put in place a much more systematized approach. But that is not going to immediately resolve the problem. Hopefully, it will begin the process of resolving the problems of this Department, which are many and acute.

This bill does put in place a large number of what, for lack of a better word, we in the Congress call fences, where we essentially say to the Department: Before you get this money, you have to show us you are going to do this effectively. It is not something I like to do. I am a legislator; I am not a manager. I used to be a manager. I used to be a Governor of a State. That is a management position. But when we see a department which has as many functions as this Department and it is not functioning correctly, regrettably, I do think it is the responsibility of the Congress and especially the Appropriations Committee, which has a unique oversight role, to step in and say before we give you more money to do this, we want to make sure that money is not going to be wasted, mismanaged, misplaced, or misappropriated, so we are going to require you to do something else. So this bill has in it a lot of what I would call fences.

The purpose of the bill, as I mentioned, is to fund more aggressively those areas which we see as threats.

Obviously, after London, many people are going to feel that a threat which needs to receive more attention is the question of how we handle mass transit. I could not agree more. There is no question but in light of the London attack—and we knew long before this with the Madrid attack and before that with the Israeli situation—this is a clear area where terrorists, who have no regard for human life, tend to focus their heinous activity. We know mass transit is an issue, but the question becomes how do we best protect mass transit.

We have put in this bill over the last few years literally tens of millions, now hundreds of millions of dollars which is available for upgrading security, for upgrading electronic surveillance, for upgrading bomb dog activity, for upgrading the number of police officers on mass transit. There is pending, in fact, within the Federal Treasury about $115 million to $150 million that has not been spent. There has been so much money put into this so quickly, it simply has not been spent, and it is still available.

On top of that, there is the $7 billion which we have put into first responder money which, if States want to reallocate some of that toward mass transit protection, they can. That has not been spent. So there is a lot of money sitting there for the purpose of helping mass transit.

If you talk with people who run mass transit, they say it is not enough. But as a practical matter, it has not been spent yet. So whether it is enough is clearly irrelevant because until it gets spent, it is clearly enough.

Independent of that, however—the fact that there is still significant dollars in the stream of things—we have the issue of how to effectively defend mass transit. We all know mass transit is such a huge enterprise where millions of people, on a daily basis—tens of millions if you take all the transit systems in this country—are moving in and out of different transit modes, whether it is trains, buses, or ferries, and are moving in and out of these on a constantly churning basis. The opportunities to attack this type of a system are almost endless.

A professional terrorist—and clearly these people are professional. They train for the purpose of killing people, using terrorist weapons. The professional terrorist is always—almost always going to be able to find, in a nation our size, with a transportation system of this size, going to be able to find a point of attack that is not secure unless—I doubt that we could spend anywhere near enough money. We have enough money to spend to fully secure mass transit, and if we did we would probably make mass transit nonfunctional.

Yes, we can raise the visibility by putting more officers on trains, more bomb dogs and surveillance agents, and we should do that, but as a practical matter the way you protect your mass transit system is the same way you protect your other infrastructure systems. It is through aggressive and robust intelligence. You have to know who these people are before they attack you. That is the key to this exercise—robust intelligence capability. And there is some irony because to accomplish robust intelligence capability you have to go where the people come from. Where do they come from? They come from the Middle East. We are fighting them in the Middle East. Yet people who have concerns about that want to put dramatically new dollars into the mass transit system.

Well, the best place to get intelligence, quite honestly, is the breeding ground of these terrorists: Iraq, Afghanistan. And so that war in Iraq and Afghanistan is, as the President has pointed out a number of times, taking the war to them to find them before they can find us. Then, once you capture the people, you have to get the intelligence from them. That is why Guantanamo Bay is such an important part of intelligence of our country and why people come down to the floor and compare it to a Nazi concentration camp is such a gross misstatement of our purpose there and the actual action there. It is totally irresponsible to make statements such as that. No one has ever lost their life at Guantanamo Bay, and the interrogations which occur there occur under strict regimes. They are constantly monitored and meet all the necessary responsibilities of legal and humane rights.

But we get vast amounts of information as a result of moving very bad people from the Iraq and Afghanistan arena over to Guantanamo Bay. We get a vast amount of information from those individuals which gives us the intelligence we need.

Then, of course, you have the issue of profiling. Clearly, if you are going to stop these people, you are going to have to profile. That is being resisted. And then, of course, you have the issue of the PATRIOT Act. Clearly, if you are going to stop these people, you have to know what they are doing, and the way to do it is through electronic interdiction of their activities to a large degree. Yet you have people resisting.

Intelligence is the key to defending mass transit. Yet within this body, regrettably, there is a lot of resistance to those elements of our efforts which are necessary in order to effectively pursue strong intelligence. But that is not an issue for this bill. The homeland security intelligence role is not at the margin, but it is certainly not at the center of the effort to gather intelligence. That is done by other agencies—the Defense Department, CIA, and FBI. However, I certainly am willing to entertain moving more money into mass transit. We could probably do another $100 million in mass transit and not affect this bill substantially. But once you get beyond that, you are going to have to take it out of the deficit or someplace like that. But will you buy more security with those dollars? Not a great deal, I don't think, because the people you are dealing with know how to get around those types of security initiatives however well you may create a better sense of security.

This bill will, I suspect, over the next few days come under amendment in the area of how better to protect our borders. Maybe we will get better border security. The other part of the equation is how you let people into this country who legitimately want to come to work and are not seeking to do us harm but seeking to improve their livelihood. The Guest Worker Program, maybe we will get into that program, and certainly how best to address mass transit protection in light of London. I am open to all of that. I am flexible. Our purpose here is to make this agency work better.

In that context, I congratulate the Senator from West Virginia, my ranking member, and who has joined us on the floor. He has been a partner in putting this effort together. He is totally committed to trying to make sure we have a much safer country and a stronger Department of Homeland Security. He has done a great job of putting forward his ideas, many of which I totally agree with, some of which I may not agree with, but most of which I do agree with. I respect immensely his years of service to this Nation, which have been extraordinary, and his counsel, which is exceptional. I thank him and his staff for the generous and extraordinary way they approach everything, but especially this bill. As we move forward, I am sure he will have some additional ideas of how we can improve it on the floor, and I look forward to hearing those thoughts and ideas and I continue to look forward as we move this bill down the road to passage sooner rather than later because the Nation does need a Homeland Security bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I have listened intently to the remarks of the very distinguished Senator as the chairman of this appropriations subcommittee, and I have been very impressed by his remarks. But prior to that, over a long period of time I have been very impressed with his dedication to the service of the people he represents here and his dedication to the Nation. He is an extremely able chairman. He has experience in the executive field, as he has alluded to, and he has experience in the committee system. He is preeminently fair in his work on the subcommittee, very fair, always willing to listen, and most charitable, may I say, toward me.

I am the ranking member on the subcommittee and on the full committee. But I could never wish for anyone to be more fair, more knowledgeable, or anyone whom I would respect more than this man from the mountains of his

great State, and I have a tremendous admiration for him and a great deal of fondness for him. He is a chairman sui generis and a gentleman along with it. I like that part, too, especially.

Now, Mr. President, the distinguished chairman of the subcommittee has outlined the threat, and he has done so very well. I can't tell you how much I have admired the way he has striven to put together this bill and utilized the limited amount of moneys that are available to us and do it in a way that will reach those areas that are in most need of funding. I am immensely pleased with the work he has done. His work is the foremost work, of course. As the ranking member, I try to help. I do have a very able staff that works with the staff of the distinguished chairman, and it is through this staff that I am able to keep abreast of things and also to make my feelings known as well.

Mr. President, the Senate, then, has before it this bill for fiscal year 2006 Homeland Security appropriations. I cannot commend too much the distinguished chairman, as I have already indicated, and his staff, for their work on this legislation. I also commend the thousands of men and women who are on the front lines of America's homeland security. They serve the Nation every hour of every day.

I welcome Chairman GREGG to his new duties as chairman of the Homeland Security Subcommittee. He comes to it, needless to say, very well prepared. He has a wealth of experience, a wealth of expertise. The chairman targets limited resources—and I emphasize the word ''limited''—on future threats, not simply the threats posed by the attacks of September 11. For the most part, the chairman has attempted to allocate resources to those threats that represent the greatest risk to the American people. In doing so he has, with my support, included a number of improvements to the President's budget particularly with regard to border security, air cargo security, funds for States to implement the driver's license provisions of the REAL ID Act, as well as funding to protect the ''all-hazards'' Emergency Management Performance Grant Program.

The committee bill builds on the bipartisan border security initiative that I offered along with Senator CRAIG to the 2005 emergency supplemental. Between the emergency supplemental enacted in May and this bill Congress will have increased the number of Border Patrol agents by 1,500, provided funds to train and house these agents, increased the number of immigration investigators, the number of agents and detention officers by 817, and increased the number of detention beds by 4,190.

The chairman has to be commended for this, and I am profuse in my admiration and my support for what he has done.

In addition, the bill contains an important protection for the privacy rights of Americans. We need always to keep these rights in mind. I thank Chairman GREGG for his support of language that I recommended concerning secure flight, the Department's proposed new airline passenger profiling system. The language would prohibit the use of commercial databases for confirming the identity of airline passengers. Such commercial databases are unreliable and potentially invade people's privacy.

The bill before the Senate provides $30.8 billion for discretionary programs, an increase of 4.6 percent. This is a very lean bill. The committee was put in a difficult position as a result of the administration's proposal to have the Appropriations Committee increase the fees paid by airline passengers, a proposal that would have raised $1.68 billion. The Appropriations Committee does not have jurisdiction over airline fees and therefore could not approve the proposal. As a result, the committee was forced to reduce spending below the President's request by $389 million.

So the low subcommittee allocation and the fee proposal resulted in cuts in firefighter grants, first responder grants, rail and mass transit security grants, Coast Guard operations, and in the number of Transportation Security Administration screeners. These cuts are very unfortunate. It is regrettable that the administration's apparent lack of understanding of the legislative process will have such a direct impact on programs that are so important, that are important elements of our homeland security strategy.

As the Senate considers this bill, I hope the Senators will look favorably on amendments to restore the cuts in firefighter grants, first responder grants, and mass transit and rail security grants. The utterly tragic events in London last week remind all of us of the imminent threat—the imminent threat, may I say—to the American people that is posed by terrorist attacks here at home—here at home.

We have heard it said it is better to fight these terrorists in Iraq than it is to fight them in New York City or in Washington. Of course that is true. Nobody doubts that. But don't let anybody be fooled. Don't let anybody be fooled. Fighting them in Iraq is not going to make us secure from having to fight them here at home in Washington, New York, Tampa, FL—wherever. Don't fall for that malarkey. That is pure bunk. Of course we know what that is all about. But it has happened in London. It happened before that in Madrid, and before that in Japan, and it can happen here. No amount of argument, debate, or plain old malarkey should convince anyone that it can't happen here. In my judgment, it will. It is coming. These people take their time. They are patient. They are not in a big hurry. And it is coming here. It is coming here. The thing about it is these people know when and where and how the attack will be made. We do not. So they have the advantages.

Let's just put that bunk to the side; forget it for now. There is nothing to it. We are in jeopardy. The American people are in jeopardy and we ought to understand that. Last Thursday, when asked if additional funding was needed to secure our mass transit system, Secretary Chertoff said, ''I would not make a policy decision driven by a single event.''

I have a great deal of respect for the Secretary. He was down in my office just this morning, outlining something with respect to the surveys which he has been making and on which he intends to report publicly, and also outlining his plans for the agency. I must say he has a real grasp, a real feel of the full scope of the problems. I have to compliment him for that.

But with all due respect for the Secretary, the alarm bells just didn't start ringing last week. The alarm bells have been ringing for years. There have been 16 bombings worldwide linked to al-Qaida. The Senate should not be reducing our commitment to firefighters and first responders, or to securing our mass transit and rail system. I am pleased that the chairman has included my recommendation to direct the Department to expedite its grantmaking process. All too often—I made mention of this in a meeting with Secretary Chertoff in my office earlier today—all too often, funds that were approved by Congress last October will not be given to Federal, State, and local agencies until this September, nearly a full year later. Americans are not made safer by having funding for border security, port security, rail security, and for hiring firefighters sit—where? In the U.S. Treasury.

On June 13, almost a month ago, I wrote a letter to Secretary Chertoff, calling on him to focus on this problem as part of his review of agency operations. I will not ask now, but I will later, that that letter be made part of the RECORD.

Unfortunately, the Secretary has not seen fit to respond to my letter. That is not worthy of a great deal of comment, but it is worthy of some comment. I hope the Secretary's delay in responding is not indicative of the administration's intent to continue leaving homeland security dollars gathering dust in the Treasury in Washington, DC.

I said this to the Secretary this morning. I am particularly appalled that the $150 million that Congress approved last October for mass transit and rail security is still sitting in the Treasury. What in the world? Why in the world hasn't this money gone out? What is it doing sitting here in the Treasury? What in the world is wrong? I said it in just about that fashion—perhaps not quite that loudly this morning in my office, but I said it, nevertheless. I am appalled by this. What in the world are we waiting on? The Department did not even announce until April how rail and transit systems could apply for the funds, wasting

a full 6 months that the rail and transit systems could have used to prepare for or to prevent a future attack.

Time and time again, the administration has talked a good game on homeland security. Man, I will tell you, you just listen to the game they talk and you feel, ''I can sleep better tonight. I will go home now. I will watch the information about who is ahead in this game or that game—I will just forget about all this other stuff.'' But it has not followed through. The administration has not followed through with a sustained commitment of resources and ideas. So I fear the administration believes that it fulfills its commitment to securing the homeland by creating the Department of Homeland Security.

I voted against that, to start with, because I foresaw this. I don't claim to have great powers along these lines. But with all my experience—and I have had some. I have been around here quite a while, longer than anybody else on this Hill—anybody: Anybody sitting in the gallery, anybody out there in the offices, anybody downtown, or anybody else. I have been around here longer in this Government, yes, indeed. Well, so much for that. But that is some experience. I have had time to see some things and to lament some things. And I have been critical of both parties, both administrations, Democratic and Republican, over the years. So I think I have some basis for saying the things I am saying.

Mr. President, America is not made safer by simply reorganizing boxes on an organizational chart. Repeatedly, the energy, the initiative, the resources, and the leadership for homeland security efforts have come from—where? Guess where. From Congress, the people's branch.

In December of 2004, Congress authorized the hiring of 2,000 new Border Patrol agents per year for 5 years; the hiring of an additional 800 Immigration investigators per year for 5 years to enforce our immigration laws, and the funding of 8,000 new detention beds for the holding of illegal aliens. But despite statements by Secretary of State Rice and statements by former Homeland Security Deputy Secretary Loy that al-Qaida is a threat on our porous borders, there was virtually nothing in the President's budget to provide these additional resources for border security—virtually nothing.

The bill that is before the Senate today commits real resources to securing our border with regard to transit and rail security.

When terrorists blew up trains last year in Madrid, Spain, the administration had no plan for securing transit and rail systems. The horrific bombings last week in London have raised the same questions that we raised last year. Could it happen here? Are we prepared? According to the RAND Corporation, between 1998 and 2003, there were approximately—I don't know why we say approximately 181, but there were 181 terrorist attacks on rail targets worldwide. Get that: According to the Congressional Research Service, rail systems in the United States carry about five times—now, get that. According to the Congressional Research Service, passenger rail systems such as Amtrak in the United States carry about five times as many passengers each day as do airlines.

Since 2001 I have offered seven different amendments to fund rail and transit security and all of them, all seven, were opposed by the administration and defeated: seven times.

Remember Robert Bruce? He was lying up there in the loft of that barn and he had lost six times. He was about to give up until he saw that spider try to swing his web from this corner to that corner. He watched it six times and it failed. On the seventh time, lo and behold, that spider made it. So Robert Bruce decided he would try it one more time; seven times he tried it, he made it.

That number reminds me of that number seven again. Jacob liked Rachel and he spoke to the old man—I refer to her father as the old man—about that beautiful daughter. The old man decided he would drive a bargain. He said, You can have her, but you work 7 years for her. So Jacob worked 7 years. At the end of the seventh year he went to say to the prospective father-in-law, How about it? Now I have worked my 7 years, I have carried out my part of the bargain, how about this nice girl you have? I have come to get her.

The old man said, No, not yet. You work 7 more. I will give you Leah, Rachel's sister. You can't have Rachel. The Bible says that Leah was weak eyed. So all to his disgust, consternation, and sorrow, old Jacob had to work 7 more years for Rachel.

Here we are talking about seven times. Since 2001 I have offered seven different amendments to fund rail and transit security and all seven, all of them, were opposed by the administration and defeated. Despite opposition from the administration, it was the Congress that created the Rail and Transit Security Grant Program that was first funded in fiscal year 2005, and that is funded in this bill today.

I call on the administration to explain to the American people why the $150 million that Congress appropriated last year has not been given to rail and transit agencies to invest in more cameras, more locks, more canine teams, more training. I ask the Senate to approve additional funding for such grants for fiscal year 2006. The $100 million included in the bill is $50 million below last year. It is $1.6 billion below the level authorized for 2006 in bills that passed the Senate last year.

While this administration has been focussing on the last attack carried out by hijackers, not one of whom was from Iraq, very little attention has been given to other vulnerabilities in aviation security. While the Transportation Security Administration examines 100 percent of checked baggage, most of the cargo that is stored in the same passenger aircraft and on cargo planes is not inspected. The threat of a bomb on an aircraft is not new. In 1988, 259 passengers aboard a Pan Am flight over Lockerbie, Scotland, perished when a terrorist-placed bomb exploded while the aircraft was 31,000 feet in the sky. Three and a half years ago, Richard Reid, the so-called shoe bomber, tried to blow up an aircraft in flight over the ocean with explosives he carried onto the aircraft.

Yet, for 3 straight fiscal years, it has been Congress, this body and the other body across the other end of the Capitol, that committed resources to address this problem. Since fiscal year 2004, Congress has added $85 million above the President's request to hire air cargo inspectors and to advance research of innovative technologies to detect explosives in air cargo.

What has the administration done with that funding? It has let $106 million sit in the Treasury. Six months after this fiscal year began, less than 12 percent of the funding appropriated for air cargo has been spent. I said this to the Secretary this morning. He will do better, he says. It is taking him a while to get his arms around this. I believe he will do better. Six months after this fiscal year began, less than 12 percent of the funding appropriated for air cargo has been spent. To make matters worse, the President's budget request for air cargo research and development in fiscal year 2006 was slashed in half.

The bill before the Senate continues the commitment to increasing the inspection of air cargo. I commend Chairman GREGG for that decision. Let me say it again: The bill before the Senate today, in this year of our Lord, this bill continues the commitment to increasing the inspection of air cargo. I commend Chairman GREGG for that decision.

When it comes to securing the Nation's chemical plant's—and I have lots of them down in the Kanawha Valley and Kanawha County, southern West Virginia when it comes to securing the Nation's chemical plants—I imagine we probably have maybe the second largest, if not the largest, concentration of chemical plants in the Northern Hemisphere right in Kanawha County or in West Virginia. When it comes to securing the Nation's chemical plants, the administration has been stuck in quicksand. We know the threat is real. The FBI has warned us about the threat. We know an attack at a chemical plant could cost millions of lives. The Environmental Protection Agency has reported that 123 chemical facilities, if attacked, could threaten the lives of millions of people. My staff person says it would threaten the lives of over 1 million people. That is a lot of people.

For years, the administration has dragged its feet on securing our chemical facilities. For years, many in the Senate have pressed the administration

to do more, to show leadership. In response to my request, the Government Accountability Office, the GAO—I don't much like that second most recent name, the Government Accountability Office—the old GAO recently released a report concluding that of the 15,000 chemical facilities in the country, only 1,100 have complied with voluntary security standards. It has been more than 2 years since the GAO urged the EPA and DHS to develop a comprehensive strategy for the protection of our chemical plants.

Last month, the administration finally changed direction on the need to provide security standards to the chemical industry. However, the administration has not yet proposed a specific plan or identified resources to implement such standards.

This bill before the Senate includes two important directives related to the protection of our chemical facilities. First, it requires the Department to provide the committee the estimates of the resources needed to implement mandatory security requirements for the Nation's chemical sector. Second, it directs the Department to begin vulnerability assessments of the Nation's highest risk chemical facilities. I look forward to the administration following through with a specific plan.

The bill before the Senate today includes $200 million for port security grants, $50 million above the amount provided in fiscal year 2005. Once again, the administration's request was woefully inadequate. It is the Congress that has taken the lead, the people's branch.

With the $200 million included in this bill, Congress will have funded $843 million for port security grants since September 11. How much has the administration requested over that time? Hear me, hear me now. How much money has the administration requested over that time? A measly little $46 million. Can you believe it? With the $200 million included in this bill, Congress will have funded $843 million for port security grants since September 11. How much has the administration requested over that time, I ask again? A measly $46 million.

To make matters worse, the fiscal year 2006 request by the White House included a proposal to have ports compete against other nonaviation modes of transportation by lumping them together in a limited pot of funding.

More than 9 million cargo containers enter U.S. ports annually but only 18 percent are inspected. All it takes is a dirty bomb stuffed into one of those 9 million containers to cripple our economy. The $150 million Congress approved last October is still sitting in the Treasury. Why this administration continues to ignore the threat facing our seaports is mind-boggling. We cannot afford to wait for the next attack.

For each of the threats I have discussed today, the bill that is before the Senate continues congressional initiatives to secure our homeland.

Again and again, and I don't get tired of saying it, I commend Senator COCHRAN, the first chairman of the Subcommittee on Homeland Security, for his leadership in 2003 and 2004. I again commend our new committee chairman, Senator JUDD GREGG, for giving clear direction to the Department in the bill before the Senate. With the resources that have been made available to the committee, Chairman GREGG has produced a good bill. Regrettably, as a result of the President's proposal to increase airline passenger fees which the Appropriations Committee lacks the authority to approve, this bill does not have all of the resources it needs to meet known vulnerabilities. It is essential that the Department of Homeland Security be responsive, not bureaucratic, while the threat we face is massive, and it is clear our response to dealing with it is tepid and unfocused. It will take a commitment of energy, imagination, and, yes, more funding, to better secure our homeland. Again, I thank my chairman and the members of the staff on both sides for their excellent work and long hours, weekends, they have spent.

Mr. President, I referred to a letter which I had written to the Honorable Michael Chertoff, Secretary of the Department of Homeland Security, on June 13 of this year. I ask unanimous consent that letter be printed in the RECORD.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 13, 2005.

Hon. MICHAEL CHERTOFF,
Secretary, Department of Homeland Security, Washington, DC.

DEAR MR. SECRETARY: You are to be commended for ordering a review of the Department of Homeland Security's (DHS) organization, processes, and procedures. As you assess how to improve agency operations, I encourage you to focus on a matter that has been a continuing frustration since the Department was established. Letting Federal dollars sit in the Treasury in Washington, DC, does not make America safer. There is no excuse for the appallingly slow pace of making Department of Homeland Security funds available to Federal, State, regional, and local agencies that are responsible for actually making America safer.

Americans are made safer when our State and local police, firefighters, and other security agencies hire, train, and equip first responders, and when funds are made available for border security and other law enforcement personnel. Yet, all too often, the Department is slow to announce how State and local agencies can apply for funds; and, all too often, DHS agencies are slow to spend money. Congress approved funding for Fiscal Year 2005 on October 11, 2004. Yet, most application kits were not released by the Department until April 2005, six months later. By the time applications are prepared and reviewed and the money is awarded, it will be the end of the fiscal year. This is time wasted that could have been spent investing in our security.

Regrettably, there has been a consistent pattern of delay at the Department.

Since October 2004, $65 million has been available under the SAFER Act to hire local firefighters. Seven months later, on May 30, 2005, the Department finally announced how our local fire departments can apply for these funds. Funds are not expected to be given to fire departments to hire firefighters until the end of the fiscal year. Every day, our 1.1 million firefighters are prepared to put their lives on the line. I do not understand why the Department waited so long to issue a grant announcement.

Since October 2004, $150 million has been available to meet the $6 billion estimated cost of securing our mass transit systems. Over 9.6 billion transit trips are taken annually on the various modes of transit service by Americans. Just a little over a year ago, terrorists struck in Madrid, killing 190 and injuring 1,800 after setting off explosives on commuter trains at rush hour. As the Madrid bombing proved, the threat to transit systems is real. It is simply unacceptable that the Department waited until April 5, 2005, to announce how transit agencies could apply for the funds.

In October 2004, Congress approved $150 million for port security to protect not only citizens' lives but also our economy. The U.S. Coast Guard has estimated that a major port closure for one month due to a maritime terrorist act could cost up to $60 billion in economic loss to the United States. I do not understand why the Department waited until May 11, 2005, to announce how our ports could apply for those funds. As a result, it will be the end of the fiscal year before taxpayers' dollars will be used to make our ports safer.

In October 2004, bus security funds were approved by Congress to put preventative measures in place on our buses. It took six months for the Department to put out a notice of how to apply for the funds.

Over the last three years, Congress has approved $400 million for the Pre-disaster Mitigation Program to reduce risks and mitigate damage before disasters occur. According to the most recent DHS expenditure plan, 95.5 percent of those funds have not yet been spent, including $31 million approved by the Congress in Fiscal Year 2003 and $136 million approved in Fiscal Year 2004. Those funds could have been spent to prevent loss of property and life; but, instead, the money sits in the Treasury in Washington, DC., while local communities battle a complicated application form and bureaucratic procedures. Natural disasters do not wait for the government to get it right.

The Flood Map Modernization Program was funded by Congress to provide resources to update maps across the nation. Flood-prone areas, particularly, need the maps to prevent damage to property and to protect citizens' lives. Of the over $215 million available in the current fiscal year, only $3 million has been obligated, slowing down this important process.

In July 2002, Congress approved an emergency supplemental appropriation for PortSTEP, a port security table-top exercise program. It took two-and-a-half years for the Transportation Security Administration to launch the $20 million program.

In April 2003, Congress enacted $38 million through an emergency appropriation for the Coast Guard to complete port security assessments at tier-one strategic ports, our highest priority ports. Two years later $16.8 million of the $38 million is currently unobligated.

Congress included funding in Fiscal Years 2004 and 2005 to hire air cargo inspectors, addressing glaring security vulnerabilities in the shipping of explosives on passenger and cargo aircraft. As of March 31,2005, less than 12 percent of the funding that Congress appropriated for additional air cargo security measures has been obligated.

In 2001, Congress approved $21.6 million for the Customs Service for improving security on the Northern border. In 2003, $14.4 million. was added. Despite the fact that we have 137 fewer border patrol agents than we had just seven months ago, this money continues to sit in the Treasury in Washington, DC.

As you complete your review of agency operations, I encourage you to expedite the expenditure of homeland security dollars. There is no reason for these funds to sit in the Treasury. There is no evidence that the delay will result in the funds being better spent when they are finally made available to Federal, state, regional, and local agencies. The longer we wait to tighten security, the greater the opportunity for terrorists to strike.

Please let me know why it is taking so long to get money out the door, and what specific systems will be put in place to make sure that this irresponsible bureaucratic delay does not continue.

With kind regards, I am

Sincerely yours,

ROBERT C. BYRD,
Ranking Member.

The PRESIDING OFFICER (Mr. VITTER). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator from West Virginia. He always brings a great deal of substance and thought to whatever issue he decides to pursue on the Senate floor. Once again, in the opening statement, he reflected that. He does outline many of the issues which need to be addressed. He outlines them well and makes very strong points. It is a result of a cooperative effort between his staff, my staff, himself, and myself that we have gotten this bill to this point. As he said, the purpose of this bill is to address the threats. That is our goal.

Obviously, there is going to need to be, in light of the London event, some adjustment in the accounts relative to mass transit, and there may be other areas where the Senate wishes to work its will.

The basic goal of this bill, as the Senator from West Virginia has said, and in which he played a major part, is to address the real problems, the real threats that face this Nation. I continue to try to do that, working with the Senator from West Virginia. I appreciate all his cooperation and his effort.

I yield the floor.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. What is the matter now before the Senate?

The PRESIDING OFFICER. H.R. 2360.

Mr. REID. I first express my admiration for the two managers of this bill. Of course, Senator BYRD is a legend, having held every leadership position, sometimes more than once. I enjoyed very much serving in the House with my friend from New Hampshire, and I recognize his stellar career as a Governor of his State and now as chairman of the Committee on the Budget and also the chairman of his subcommittee.

AMENDMENT NO. 1129

I send to the desk an amendment on behalf of Senator PATTY MURRAY, Senator AKAKA, and Senator BYRD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for himself, Mrs. MURRAY, Mr. BYRD, and Mr. AKAKA, proposes an amendment numbered 1129.

Mr. REID. I ask unanimous consent to dispense with the reading of the amendment.

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

The amendment is as follows:

SECTION 1. VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—From any money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Department of Veterans Affairs $1,500,000,000 for the fiscal year ending September 30, 2005, for medical services provided by the Veterans Health Administration, which shall remain available until expended.

(b) EMERGENCY DESIGNATION.—The amount appropriated under subsection (a) is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

(c) This section shall take effect on the date of enactment of this Act.

Mr. REID. I appreciate the managers of the bill allowing me to offer this amendment at this time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, the tragic bombings in London are a sober reminder of how vulnerable America and our allies remain to terrorism. What happened in London last week is likely to be tragically replicated if our country does not act boldly to reduce what ought to be called a terror tax now imposed on the American people.

I call it a terror tax because when we pull up to the corner gas station and pay $2.40 a gallon or so for gas, the reality is a portion of that money is then turned over to foreign governments that ''back door'' it over to Islamist extremists who use that money to perpetuate terrorism and hate.

What I call the terror tax is not posted as a price at our gas pump. We do not see it in our pay stub. It is not calculated in our balance of payments to foreign governments. It is a tax measured not in dollars and cents but in risk and insecurity to the American people. It is as real as everything else the American people put their money toward each week.

Of the 20 million barrels of oil Americans consume each day, almost 12 million barrels of it is imported. That percentage, now nearly 60 percent, is growing. It was only about 33 percent at the time of the Arab oil embargo years ago. Our addiction to foreign oil has nearly doubled in what amounts to just a few years.

In the next few weeks, the House and Senate will be sitting down as part of an effort to write an Energy bill that must take as its priority helping to shake us free of this addiction to foreign oil.

I voted against the Energy bill in the Senate because I felt it did not do enough to reduce our dependence on foreign oil, but I hope, especially at this critical time, on a bipartisan basis during this conference it will be possible to make this legislation better.

I believe it is important to do as much as possible to reduce the terror tax that comes with our dependence on foreign oil. It is not good enough to accept business as usual when our citizens pay record prices at the gas pump, only to see foreign governments wink and nod while terrorist groups make off with substantial amounts of money and use those funds to target the United States. In my view, there is an indisputable link not only between the American dependence on foreign oil and the price our citizens pay at the pump, but between our oil addiction and our vulnerability to attack here at home.

For this reason, as the House and Senate get together to look at a strategy to reduce our dependence on foreign oil, I intend to propose five concrete steps to reduce the terror tax.

First, I want the State Department to publish each year for the next 10 years a report on the flow of money paid by Americans at the gas pump to foreign governments that ends up in the hands of Islamic extremists who target America with acts of terror.

Second, since most foreign oil goes to the transportation sector, I want the American automobile industry to be required to increase auto efficiency by just 1 mile per gallon each year for the next 10 years. Think about what a modest step that is—just 1 mile per gallon. Otherwise, the auto industry ought to explain to the American people why they cannot meet this objective that I am calling for that is so important to the national security of our people.

Third, for each of the next 10 years, the Energy Department should publish a list of the most energy-efficient cars in each of the major types of vehicles so the auto industry would have to compete on the basis of the most fuel-efficient automobiles.

Fourth, to increase the responsible production of oil in America, not overseas, companies that increase oil production at existing wells shall receive a 2-percent annual increase in their tax writeoffs for this production for each of the next 10 years that the company increases production from existing wells in the United States.

Finally, this bill must promote new alternatives to oil. I have proposed a no-risk way to kick-start efforts to get hydrogen fuel cell vehicles on the road within the decade. By creating incentives for selling hydrogen vehicles and fuels, we would pay only for performance. Only actions that put hydrogen vehicles on the road or provide stations to fuel up would qualify for the incentives.

In the nearer term, other alternatives would become readily available. They include cellulosic ethanol made from plant materials grown by American farmers as well as electricity

produced by flexible fuel hybrid electric vehicles that can be plugged in as well as refueled at the pump.

Getting a fair energy bill that reduces our dependence on foreign oil is just about the most red, white, and blue step this Congress could take. It is absolutely critical if we are to do everything possible to ensure our national security. Experts from a range of political stripes agree that the single most important step Congress can take to make America more secure is to reduce our dangerous dependence on foreign oil.

As a member of the conference committee on the energy bill, I look forward to working with my colleagues to secure these commonsense steps to end the terror tax brought about as a result of our addiction to foreign oil. Doing so is simply a matter of life and death for the citizens we respect so much here at home.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, there is now pending on this bill an amendment offered by the Democratic leader, Senator REID, relative to the Veterans' Administration. I am not sure how that is going to be handled, but clearly the bill becomes tied up in that issue for a while. I am not sure whether people are even going to come down and debate that amendment, as it was offered last week to the Interior bill. I am not really involved in that skirmish, but I do want to bring us back to the essence of this bill and the purpose of this bill and return to the fact that from my standpoint the biggest concern we have to address is weapons of mass destruction. The second biggest concern is border security.

I wish to talk a little bit about border security because I do believe this is where the Homeland Security agency can make the largest contribution toward trying to make our Nation more secure.

I know there is a lot of concern out there today about what happened in England. But you have to remember that the people who probably committed that act in England came from outside of England. They came into England with evil intent. In fact, I have seen some early news reports which have implied the detonating mechanisms used were of a type you could not acquire in England; therefore, it is presumed that the people who committed this act came from outside of England. I think one can safely assume that, especially in light of 9/11 where the people who attacked us came from outside our country, although in some instances they came with legal visas.

So it is critical we get control of our borders. Last year, over 3 million people came into this country illegally—3 million people. The estimate is somewhere between 11 and 15 million people are in this country illegally. We know that a large percentage of those people, especially people coming across our border with Mexico, are coming here because they have a legitimate desire to work in America. They are seeking jobs. I guess it is a reflection of the strength of our economy and the strength of our Nation that people seek to come to America in order to get a better livelihood and to give their families a better chance of having a better livelihood.

Those people are not threats. Those people are here to put in a hard day's work and make enough money to have a decent living. In many cases, they are doing jobs Americans are unwilling to do. There ought to be a way to address that concern, and it ought to be some sort of guest worker program. Hopefully, we will address that as a Congress. We should address that. I consider it to be one of the primary needs we have to address.

In the context of homeland security, if we could in some way identify effectively people who are coming across our borders who are coming not with the purpose of ill-intent but with the purpose of having a decent job, that would significantly reduce the number of people we would have to focus on relative to the threat they present. So a decent and intelligent immigration policy in this country, with an effective guest worker program, is critical to our national security.

But that is not the responsibility of the Homeland Security agency. The Homeland Security agency's purpose is to actually have the physical people on the border who check the people who come across the border and stop the people coming across the border illegally. The pile of reports I referred to before—the actual plurality of them if not the majority of them—reflect the failures of our ability to adequately monitor our borders. We have found we are not doing a very good job on our borders.

As I said, 3 million people are coming into the country illegally every year—that is the estimate—and over 10 million people who are probably here illegally already. A fair percentage of those folks are not Mexican. They are coming from another country, but they are coming across the Mexican border. And those people may very well represent legitimate threats to our country. So we need to do something to address this issue.

There are different levels where we need to address this issue. I mentioned the guest worker program would be a major effort in this area, but in the area of just plain security, there are initiatives that need to be pursued. So what we did was we looked at what was happening with our border security effort and concluded there were certain programs on the border that needed really significant increase in resources in order to be effective.

Some of them, unfortunately, could not take as much resources as we would like to have given them because they simply could not handle it effectively. The first was just simply feet on the ground. We need more Border Patrol agents on the ground, especially on the southern border. That is a feet-on-the-ground issue. Unfortunately, because of the training capacity and because of the ability to hire people who want to go into the Border Patrol as a career, we cannot add as many people as we would like to add.

As was mentioned by the Senator from West Virginia, there was, 3 or 4 years ago, a proposal to hire 2,000 a year. What we found was the Border Patrol simply could not find the people. And then they could not train the people when they did find them. However, we decided a significant increase was important. Working with the Senator from West Virginia again, in the supplemental, we added 500 new Border Patrol agents this year. We have now added another 1,000 agents with this bill, for an additional 1,500 agents. So that is actually a little bit outside the envelope of what the Border Patrol can effectively train.

We are also significantly increasing the commitment to the training facilities so we can increase training capacity so that next year, when we have this bill, it is my intention to add more than 1,500. I hope to get up to 2,000 next year. The year after that, I hope to get to 2,500. The goal is to get to 10,000 new Border Patrol agents within 5 years. Whether we can reach it, I do not know. But if we can get the training facilities up, get the infrastructure up that supports these people, and get the Border Patrol agents up, then maybe we can do it effectively. But the first step is to add these additional 1,500 agents.

Now, once you have the Border Patrol physically on the ground, they are going to catch people. That is their job. The problem today is that when they catch people they have to let them go. They send them over to the court, and the court sends them out on their own recognizance. They are supposed to return for a court date, and they never return. About 85 percent of the people who are asked to return do not return. Well, that is not too surprising, really. They came here illegally. Why are they going to return when they are told they can go away and come back on a different date for their court appearance?

We need better and more capacity in the area of detention. So this bill, working with the supplemental, again working with the Senator from West Virginia, adds about 4,000 new detention beds. Again, our goal is, within a limited period of time—hopefully not 5 years in this case, hopefully even less—to be able to detain effectively anybody who is caught who is other than a Mexican citizen coming across our border with Mexico, to be able to detain that person as long as it is necessary to make sure they are not a threat to us. It is something we cannot do today. But this bill moves in that direction by adding 4,000 new beds in this area.

We also have the unmanned vehicle program. This program, which is an important element of the surveillance of our borders, has fallen on hard times. In fact, the vehicles were basically stopped about a year and a half ago. They just stopped running them because they were not working. They started again, and this bill attempts to get the unmanned vehicle program running at a much more aggressive level. This is a tremendous opportunity for us to survey the border using fewer personnel more efficiently.

In addition, we have technology on the borders, the video and the other types of sensor capability. Again, we have run into major technology problems. Contracts were let that should not have been or were let ineffectually. One more time we got a bunch of reports on this one. While the program has been restarted, this bill tries to make sure the program goes forward effectively. This is a fencing issue here. We are saying we were going to give you a lot more funds, but we want to make sure the funds are spent effectively.

Also in the area of people coming into this country legitimately who actually are going through our immigration entrance system, we have very significant issues of being able to track who they are and when they come in and when they leave. In order to address that, we are trying to set something up called US–VISIT which is a major new technology initiative of extreme complexity. Therefore, I recognize it is not going to come on line maybe in a perfect way.

What we are concerned about, speaking for the Senate and for the subcommittee, is that the US–VISIT Program, which is going to purchase massive amounts of software and hardware capability to go into the immigration system, that that program not end up being like the programs we have had in other major Federal agencies which have initiated major complex IT initiatives, such as the Trilogy Program at the FBI, that we not end up being halfway down the road, hundreds of millions of dollars having been spent, and we realize we have a program that doesn't work. This bill attempts to make sure that the US–VISIT Program is being brought on line in a way that we have benchmarks and we know the software is meeting the criteria and the regimes that are appropriate to that type of software and that the hardware can interface with it effectively.

This bill makes a major initiative in the area of basically putting emphasis on the borders, both with the feet-on-the-ground issue, with the technology issue, and with the capital infrastructure issue in the area of border facilities and detention facilities. Therefore, I think it is the right approach. Is it going to get our borders secure unilaterally by this effort? Obviously not. But it is a step in the right direction and part of the formula that should lead us to borders which are more secure.

The simple fact is, as a nation, we are not going to be able to protect ourselves from the significant threat of these individuals who will come here for the purposes of killing Americans, and for no other purpose, until we get effective control over the borders and know who is coming in and why they are coming and make sure we do not allow or are able to stop people who are coming into this country whose purpose is to commit acts which will harm Americans. This bill is an attempt to step down that road in a much more aggressive way.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 1133

Mr. GREGG. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. Is there objection to setting the pending amendment aside?

Mr. GREGG. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. GREGG] proposes an amendment numbered 1133.

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

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

The amendment is as follows:

(Purpose: To increase funding for Firefighter Staffing)

On page 81, line 22, strike ''For necessary'' down through and including ''tion.'' on line 4, page 82, and insert the following:

''*For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $615,000,000, of which $500,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $115,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of such Act, to remain available until September 30, 2007: Provided, That not to exceed 5 percent of this amount shall be available for program administration.*''

Mr. GREGG. Mr. President, I ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I will not object to the chairman's amendment. We need additional funds for the SAFER Firefighter Hiring Program. But this amendment leaves the program to equip and train firefighters $150 million below fiscal year 2005. Last year the Department received $2.76 billion of eligible applications and could only approve 25 percent of the applications. In response to this incredible demand for firefighting funds, the bill will cut firefighter equipment and training grants from $650 million to $500 million. So while I don't oppose the chairman's amendment, I put the Senate on notice that I will offer an amendment to restore the cuts in equipment and training for our firefighters. I hope the Senate will agree to the pending amendment.

Mr. GREGG. Mr. President, I understand the Senator's point. My purpose here is to recognize the fact that we put over $2 billion into equipment, and we need to start focusing on training. This will move $50 million over to the training side and still leave in the pipeline a dramatic amount of money for equipment. We can address that issue down the road, as the Senator from West Virginia represents he may wish to do, but at this point I think this reallocation of funds is a statement of policy that is appropriate.

I again ask unanimous consent that the amendment be agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. No objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1133) was agreed to.

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

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

Mr. DORGAN. Mr. President, I ask unanimous consent to speak as in morning business for 10 minutes.

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

Mr. DORGAN. Mr. President, I will speak at a later point about the underlying bill, the Homeland Security appropriations bill. It is an important piece of legislation. I say to the manager that I just checked with the cloakrooms, and there is nobody coming to speak, so I wanted to speak in morning business. I will have an amendment dealing with the proposed passport requirements between the United States and Canada, and I will address that later.

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

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

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

Mr. GREGG. Mr. President, I ask unanimous consent that at 5:30 this afternoon, the Senate proceed to a vote on the adoption of a resolution which is at the desk and relates to the recent bombings in London; provided further that no amendments be in order to the resolution or preamble. I further ask that there be a moment of silence prior to the vote on the resolution.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, I understand from my colleague from New Hampshire that we will be voting on a resolution at 5:30 this evening, expressing our condolences to our allies and friends who had to bear the brunt of a terrorist attack, an aggressive terrorist attack, in London. It is heartbreaking to see the results of these horrible attacks against innocent people committed by terrorists who apparently are determined to kill innocent people, as many as is possible, to make their point, whatever their point is.

That attack reminds all of us again of how vulnerable we are and how important homeland security is, and I think it underscores the importance of this appropriations bill. Homeland security is critically important. It means we have to have reasonable border security. It means we have to have port security and a range of other issues. I want to mention two things.

We have spent a lot of money and a lot of time dealing with security of air travel, particularly commercial airlines. Now when you go through the lines at the airports, they are searching for tweezers and all those items that might be used as weapons. Sometimes there are long lines. I know it is frustrating. We have devoted a lot of time and effort in this country dealing with the last terror attack in which 15 of the 19 terrorists were Saudi citizens. Nineteen terrorists drove jet airplanes loaded with fuel into buildings to be used as missiles, and we are dealing with that a lot. We are spending a lot of money dealing with this issue of airport security and aviation security.

My colleagues, and particularly one of my colleagues who departed the Senate, Senator Hollings, have talked a lot about port security. We have about 9 million containers coming in on container ships in this country in a year—9 million containers in a year. A relatively small percentage of those containers are inspected. If, God forbid, terrorists should get a hold of a small nuclear weapon, the size of a grapefruit or a basketball, and detonate a small nuclear weapon at one of our docks in a container on a container ship, it could obliterate an American city. Yet we have not spent nearly as much time dealing with port security or, for that matter, rail security as we have dealing with the issue of security at airports and security in commercial air travel. We must do a much better job with respect to ports.

When we have that many containers coming into our ports with so few being inspected, it leaves our country vulnerable.

I recall visiting a port one day. I come from a State without ports. We do not have a water boundary. I was interested so I toured a port in a major city. I asked: What is in that container on that ship?

That is frozen broccoli, they said.

Is it full of bags of frozen broccoli?

Yes, it is full of 100-pound bags of frozen broccoli.

How do you know that? Do you know what is in the middle of that big old container?

No, we just know that is what it says on the bill of lading, frozen broccoli.

What if, God forbid, somehow terrorists acquire a nuclear weapon and put that in a refrigerated container on a container ship or any container on a container ship destined for one of our country's major port cities and detonate that nuclear weapon at the docks in the middle of one of America's port cities?

We must find ways to address those issues, and we have not spent nearly the resources necessary to give us adequate security at America's ports. We have not spent nearly the resources necessary to provide the security with this country's rail system.

We haul every day, all across this country, toxic material, dangerous material all across America. If terrorists were to find a way to deal with that and manipulate a terrorist attack in our rail system with the kinds of materials that move on our rail system, we would be in a very difficult situation.

As we review this legislation today and tomorrow, we need to continue to rethink how do we improve, how do we make the adjustments necessary to devote more resources for port security, especially port security and rail security.

I did indicate we do need to control our borders. There is no question we need to do that. But I think even the President expressed surprise at the suggestion of the Department of Homeland Security that with regard to the 4,000-plus-mile common border with Canada, we are going to require every person moving back and forth through that common border to have a passport.

In my judgment, that is an impractical way to provide security at America's borders. As the President suggested, I hope the Homeland Security Agency will rethink that. In our part of the country we have a long and common border with Canada. Every day there is a substantial amount of commerce coming back and forth. People farm on both sides. People work on both sides, do business on both sides. To require a passport in both directions would make no sense at all.

When I began talking about this before 9/11/2001, we had ports of entry at the northern border ports that when they closed in the evening security consisted only of an orange rubber cone put in the middle of the road. The polite ones actually stopped and removed the cone before they came across the border. Those who were not so polite would run over it at 60 miles an hour.

So we have made improvements in those areas but much remains to be done. I hope as we construct, talk about, and consider amendments to this bill, we will finally understand that security means security in every area, not just in aviation or commercial airports. The tragic attack in London tells us once again how vulnerable some of these areas are and I mentioned two today: our rail system, No. 1, and especially No. 2, our port system, which renders much of our major and largest port cities in this country very vulnerable to a devastating terrorist attack. We must and we can and we will do better.

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

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

The legislative clerk proceeded to call the roll.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that the Reid amendment be temporarily set aside for the purpose of offering an amendment.

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

AMENDMENT NO. 1142

(Purpose: To provide for homeland security grant coordination and simplification, and for other purposes)

Ms. COLLINS. Mr. President, I have an amendment at the desk. I call up the amendment No. 1142.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mr. LIEBERMAN, Mr. DEWINE, Mr. COBURN, Mr. AKAKA, Mr. CARPER, Mr. SALAZAR, Mr. COLEMAN, and Mr. VOINOVICH, proposes an amendment numbered 1142.

Ms. COLLINS. I ask unanimous consent the reading of the amendment be dispensed with.

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

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

Ms. COLLINS. Mr. President, I rise today with my good friend, Senator LIEBERMAN, to offer an amendment to the Homeland Security appropriations bill. Let me note at the outset my appreciation for the work that Senator

LIEBERMAN has done on this issue. He and I have worked together with members of the Homeland Security Subcommittee for the past 3 years on this authorization to develop an improved homeland security funding approach based on extensive hearings we have held, much consultation, and hard work by our committee.

We are pleased to be joined by several cosponsors, including Senators CARPER, COLEMAN, AKAKA, VOINOVICH, DEWINE, BINGAMAN, and SALAZAR.

The amendment we offer would for the first time authorize a framework for the billions of dollars the Department of Homeland Security allocates each year to assist first responders and State and local officials in helping to prevent terrorism and to prepare for an attack. That important point bears repeating. The more than $8 billion that Congress has appropriated for grants to States and localities for terrorism prevention and response since 9/11 has never been definitively authorized.

This is not a matter of an authorization having expired, which happens quite frequently around here, but rather of a multibillion-dollar program that has never been authorized. This is highly unusual. In fact, my staff checked with CRS, which went back a decade and could not find a single other grant program over $1 billion that has never been authorized. Sure the appropriators have borrowed a funding formula from the PATRIOT Act, although the bill before us does not use that formula, but in truth the appropriators have had to legislate the details of the Homeland Security Grant Program year after year. So, for example, the House-passed version of this year's Homeland Security appropriations bill determines the minimum allocation that each State is to receive, establishes a strict timeframe for applications to be submitted and for the Department to act on them, requires 80 percent of the grants to be passed on by States to local governments within 60 days, determines for what funds can and cannot be used, and requires grantees to submit reports on their use of funds. That is a lot of legislative language on the House-passed appropriations bills, and indeed the Senate version before us contains similar legislative provisions.

These are the kinds of programmatic decisions that Congress is supposed to determine through authorization bills, not each year anew on an appropriations bill. What Senator LIEBERMAN and I are offering today is the specific, detailed authorization bill that this program has never had. Frankly, we would prefer not to do this, not to offer it to the appropriations bill. We believe our legislation, S. 21, which is the product of numerous legislative hearings, two markups, and input from countless interested parties and many homeland security experts, should be considered by the full Senate on its own. The House recently passed a companion measure. S. 21 is on the Senate calendar, having been reported by the Homeland Security Subcommittee without dissent on April 13. But there are no assurances that it will be brought to the Senate floor. So we are offering our authorization bill as an amendment to this appropriations measure.

Although Senate rule XVI generally prohibits authorizing on an appropriations bill, ironically there is an exception when the House has, in essence, opened the door by legislating on the matter in its own bill. That is what has happened here, so we believe that rule XVI is not implicated.

Mr. President, you may be saying, Why does this really matter? What is important about this bill that it should be brought up rather than allowing the situation to continue with slight tweaks and variations and new legislative language on the appropriations bill, year after year? Let me talk about the amendment, which is the text of S. 21 as reported, with a few changes.

The amendment establishes a new formula for distributing homeland security grant dollars. It determines how funds are to be allocated, sets criteria to ensure that the funds are spent in ways that help States and communities develop essential capabilities to prevent and respond to terrorism, and it holds grantees responsible for achieving results.

Perhaps the amendment's most important provisions are those that inject needed accountability measures into the grants process. We have all heard the horror stories about inappropriate spending of homeland security funds. This waste is intolerable, but particularly so when there are so many unmet needs that are scrambling for funds—needs where the funding simply is not available. Our amendment will put into place tough new standards to ensure that homeland security funds are spent wisely and in ways that will help us better prepare for, or respond to, or prevent a terrorist attack.

Let me refer to this chart which summarizes the accountability measures that are included in the Collins-Lieberman provisions. The first is tying spending to standards. This amendment requires that States distribute and spend homeland security funds only in ways that measurably help them meet preparedness standards and achieve essential capabilities to be determined by the Department of Homeland Security. In other words, no more spending homeland security dollars on leather jackets in the District of Columbia or air-conditioned garbage trucks in New Jersey. For that matter, even purchases of perfectly appropriate items such as hazmat suits must be tied to achieving essential capabilities set by the Department. This safeguard is designed to prevent a community from purchasing equipment that it has no reasonable expectation of needing. I know this is an issue with which the chairman of the subcommittee, Senator GREGG, has been particularly concerned.

The second accountability measure is a thorough annual audit by the General Accounting Office to ensure that funds are not being wasted and that the program is working as intended.

Third is greater coordination among the many grant programs that fund prevention and response efforts. Our amendment would create a Federal interagency committee to promote coordination of homeland security grants throughout the Federal Government. In particular, this committee would focus on eliminating redundant application, planning, and reporting requirements faced by States, local governments, and first responders in applying for and executing different Federal homeland security-related grants.

Fourth are robust reporting requirements. These are the means by which accountability can be enforced. The amendment requires grant recipients to submit annual reports on their specific uses of grant funds and their progress in achieving essential capabilities. These reports would be submitted to the Secretary. The Secretary, in turn, would be required to submit an annual report to Congress, providing an accounting of how grants to States and communities are spent and an evaluation of their progress.

Fifth are the remedies for noncompliance, what I call the enforcement mechanisms. The amendment empowers the Secretary to terminate or reduce grant payments if a State or locality fails to comply with all the requirements of the grant.

In addition to these tough new accountability measures, our amendment authorizes a funding amount that is adequate and a distribution formula that is fair. This legislation dramatically increases the funds that would be distributed based on threat, risk, and consequences. It also maintains a meaningful level of funding for each State. Much of the frontline responsibility for homeland security has fallen squarely on the shoulders of our State and local officials and our Nation's more than 9 million first responders. Communities across America have risen to this challenge and developed scores of innovative homeland security strategies. For these strategies to be implemented, however, all States must achieve a baseline level of essential capabilities. At the same time, we must direct resources toward locations and facilities that are at higher levels of risk and vulnerability.

Both of these goals—helping each and every State come up to a minimum level of preparedness and targeting funds to those areas and facilities at greatest risk—require an adequate, steady, and predictable stream of Federal funding. Absent that stream, we find ourselves in an escalating argument over whether these resources are being allocated and spent properly.

Unfortunately, this argument increasingly pits our urban centers against our rural regions. We believe the bill that we have carefully crafted strikes the right balance.

Let me acknowledge the hard work of Senators GREGG and BYRD in putting together this appropriations bill. We share with them the goal of a fair formula for allocating funds to States while increasing the proportion of funds that would be distributed based on risk, but the problem is unpredictability. We ask States to prepare multiyear plans for improving their homeland security capabilities and yet each year we threaten to develop a new formula for distributing Homeland Security grant dollars. That is why in supporting our legislation, S 21, the National Governors Association underscored the need for the predictability that our amendment would provide.

On the chart behind me is a quotation from the Governor's letter. It reads as follows:

To effectively protect our states and territories from potential terrorists events, all sectors of government must be part of an integrated plan to prevent, deter, respond to and recover from a terrorist act. For the plan to work, it is essential that it be funded through a predictable and sustainable mechanism both during its development, and in its implementation. A minimum allocation to each state and multiyear authorization levels of funding will provide the predictability necessary to implement statewide plans that will assist governors in securing our nation.

This is, after all, a partnership with first responders, with local governments, and with State governments.

Our amendment would provide the predictability States need to protect our Nation. First, our amendment authorized a sufficient level to reverse the trend of declining Homeland Security funding by authorizing the program at the fiscal year 2004 level of $2.9 billion. As the chart behind me demonstrates, funding for first responders is on the decline by $900 million from 2004 to the level proposed in the President's budget. We were reminded just last week that the war against terrorism has not been won. The battle continues. It is our first responders who are on the front lines. Do we truly believe that now, during a period of heightened alert, is the time to scale back our efforts in preventing and responding to terrorist attacks? I think not.

Our amendment also incorporates a balanced formula. Each State would be guaranteed a minimum allocation of .55 percent of the total funds appropriated for State and urban area grants. The minimum, however, is scaled so that States with larger populations and higher population densities would receive additional funds. We call this a sliding scale baseline. It will promote a level of preparedness and provide predictability. The remainder of the total funds would be distributed to States and regions based on the Secretary's determination of risk and threat.

As this chart shows, the amendment makes a grant investment in threat-based funding. It increases the proportion of risk-based funding by more than 60 percent. Moreover, under our sliding scale distribution using factors the Department of Homeland Security employs now in its risk-based approach, another 10.7 percent of appropriated funds would be allocated only to the most populous and most densely populated States.

These are important steps toward bridging that urban-rural divide, and they balance the need for predictability for bringing each State up to a minimum level of preparedness with a heightened emphasis on allocating funds based on threat, risk, and consequences.

As the ranking member on our committee well knows, since he has joined with me in all of these investigations, the choice must not be between protecting skyscrapers or farms and feedlots that provide our food supply, or chemical plants and industrial zones versus the rural communities that trucks and trains carrying those hazardous chemicals pass through. All funds beyond those necessary to cover the baseline allocations, more than 60 percent of the total, would be distributed based on the relative threat, vulnerability, and consequences faced by an area from a terrorist attack. From this funding pool, the Secretary would make threat-based grants to both States and metropolitan regions.

My colleague from Connecticut feels strongly about taking a regional approach to homeland security. In allocating the risk-based formula, the Secretary would prioritize grants with consideration given to such factors as population, population density, critical infrastructure, coastlines, international borders, previous terrorist attacks, elevated threat levels higher than the rest of the Nation, as well as other factors he deems appropriate.

While allowing judgment on the part of the Secretary, we specifically delineated some of the critical factors—the ones I just read—that the Department must take into account. In doing so, we take some of the mystery out of the black box from which DHS now seems to generate some of its funding decisions, decisions that result, for example, in Minneapolis receiving funding but not St. Paul.

One of the most disturbing aspects of the urban-rural argument is the assertion often made that locations outside of our largest cities have no significant homeland security needs. This is demonstrably untrue. It ignores a great deal of expertise. It ignores our history.

A recent study conducted by the Harvard School for Public Health, with coleadership by the Maine Department of Health and Human Services and participation by 26 States, shows that rural areas face unique and profound homeland security challenges. A great many power and water supplies as well as virtually our entire food supply are located outside of urban areas. Work our committee has done on agro-terrorism shows the potential threat to our food supply. In addition, rural areas have far less capacity to deal with a terrorist attack or a public health crisis.

In a letter describing its commercial equipment direct assistance program, the Department of Homeland Security itself wrote:

When they face the common threat of terrorism, the needs of smaller jurisdictions are very different from the needs of larger metropolitan areas. Smaller agencies confront threats to the transportation infrastructure, agriculture, water supplies, power grids and other critical items spread out over a wide geographic area.

I will highlight the next statement because the events preceding September 11 show it is so true:

Terrorists may live and train in rural communities. Targets such as pipelines and nuclear power plants are typically located in smaller jurisdictions.

Indeed, among the most striking aspects of the report of the 9/11 Commission is the extent to which the terrorists did live, organize, and train in America's smaller communities. The contacts they had with smaller law enforcement agencies before the September 11 attacks are striking, as well.

As the committee reconstituted the movements of the terrorists after they arrived in the United States, the trail led to such places as Venice and Coral Springs, FL, Norman, OK, Falls Church, VA, Lawrenceville and Stone Mountain, GA and, of course, most personal to me, Portland, ME. It was Portland, ME from which two of the hijackers, including the ringleader, began their journey of death and destruction on September 11. It is not just the large cities that attract those who would do us harm. Indeed, often they feel more secure in hiding in our smaller cities and communities.

As we seek to ensure that our communities, large and small, are prepared to respond to a terrorist attack, we must not lose sight of the need for prevention. Our amendment ensures that the prevention of terrorist attacks, not just response efforts, receives a significant share of Homeland Security funds. This is an area that law enforcement groups tell us over and over again has been neglected.

Our amendment ensures that the prevention of terrorist attacks receives significant funds. It would for the first time authorize the Law Enforcement Terrorism Prevention Program which funds prevention activities by State and local law enforcement. Under the amendment, 25 percent of Homeland Security grant funding would be used for law enforcement terrorism prevention, including information sharing, target hardening, threat recognition, terrorist intervention activities, interoperable communication, and overtime expenses incurred in support of Federal homeland security efforts.

The International Association of Chiefs of Police recently released a report that put it very well. They warned:

In our national efforts to develop the capacity to respond to and recover from a terrorist attack we have failed to focus on the importance of building our capacity to prevent a terrorist attack in the first place.

We are never going to be able to protect every single target in this country. That is why we have to pay attention to the prevention, the detection, the law enforcement side, as well as the response side.

Because of our bill's emphasis on terrorism prevention, it has been endorsed by the National Association of Police Organizations, the International Association of Chiefs Of Police, the International Union of Police Associations, the National Troopers Coalition, the United Federation of Police Officers, the International Brotherhood of Police Officers, the Fraternal Order of Police, and the National Organization of Black Law Enforcement Executives among others.

NAPO is the strongest voice supporting law enforcement officers in the United States, representing more than 236,000 sworn law enforcement officers as well as retired officers, and 100,000 citizens who share a common dedication to fair and effective crime control and law enforcement. They, too, have pointed out in a letter to Senator LIEBERMAN and me that we need to be sure State and local law enforcement are properly supported, trained, and equipped to prevent terrorism before it occurs.

I do not believe we can allocate Homeland Security dollars effectively and efficiently unless we listen to and learn from the advice of our law enforcement officers and other first responders. Guided by a task force of first responders, the Secretary would establish the essential capabilities I referred to earlier to ensure that first responders have the support they need.

Preventing and responding to terrorism is a national challenge, but preventing and responding to specific acts of terrorism in the urgency of the moment is a regional challenge. We saw this after the September 11 attack on the Pentagon and in New York City when first responders from outlying communities rushed in to make invaluable and heroic contributions to the rescue operation.

We saw it again in simulation at the TOPOFF 3 exercise I observed earlier this year with Senator LIEBERMAN. This incident was a simulated explosion and chemical attack at a waterfront festival in New London, CT. The contributions by first responders from the outlying smaller communities were enormous, but their efforts were hampered by a lack of interoperable communications equipment.

Senator LIEBERMAN and I saw some first responders who were carrying as many as three emergency radios, which slowed the evacuation of those who were playing the injured parties to hospitals throughout the region. In a real attack, these delays—that incompatibility of equipment—would have had devastating consequences.

Regional planning and coordination are essential, and our amendment would shift the focus of local funding from individual cities to metropolitan regions. Unlike the current Urban Area Security Initiative under which DHS simply announces a list of cities it has selected to fund, our amendment would establish an application process for metropolitan region funding.

In applying for funding, communities would be given considerable flexibility in forming regions that would make the most sense locally. Our amendment provides that the regions within the 100 largest metropolitan statistical areas would automatically be eligible to apply, with additional regions eligible under certain circumstances.

Our amendment would also allow for regional coalitions—even those spanning multiple States—to apply for grant funding together to address common needs. I think this would lead to real breakthroughs in strategy.

Let me give you a concrete example. Several Midwestern States are joining together to take steps to prevent and, if necessary, respond to acts of agroterrorism. That is exactly the kind of project that our amendment would provide for and fund. Under current law, these States could not seek funds as a group despite the common threats they face and the common solutions they seek. Our amendment breaks out of this rigid mold to allow States, counties, cities, tribes, and other governmental units to think regionally and creatively as they seek to prevent and prepare for terrorist attacks.

Our amendment would also put the State and local homeland security planning process where it belongs, on the front end. This legislation requires State and local jurisdictions to plan for how funds will be spent before the funds arrive. Currently, much of the deliberative planning on how funds will be spent is done on the back end, only after DHS has allocated grants to States and urban areas.

Moreover—and this actually is another safeguard—our bill would require States to spend money according to State plans approved by the Department of Homeland Security. More advanced funding means funds will be spent more quickly and according to a coherent strategy.

Whenever I meet with first responders, whether it is in my home State of Maine or elsewhere, I am always struck by the fact that very few of these brave, dedicated men and women first went into law enforcement, firefighting, or emergency medical services ever thinking they would end up on the front lines of a war against terrorism. They have been handed an unprecedented and unimaginable challenge, and they have accepted it bravely and willingly. They deserve the equipment, training, planning, input, accountability, and stability that our amendment would provide. They deserve to have this critical program that is so essential to the security of our Nation properly authorized, funded, and designed.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am proud to be a cosponsor with Chairman COLLINS of this amendment. I want to speak on its behalf.

THANKING SENATE COLLEAGUES

Mr. President, I do want to say on a personal matter, very briefly, this is the first day I have returned to the Senate since my mother, Marcia Manger Lieberman, left this Earth on June 26. The following week I was observing a period of mourning.

We were blessed to have Mom live to the age of 90. She taught us a lot of lessons throughout life: how faith and family and community matter most. We are going to miss her, of course. But I want to take this moment to thank all my colleagues who reached out to me and my family, including the occupant of the chair, the Senator from North Carolina, Mr. BURR, and my friend and colleague from Maine, Senator COLLINS.

I thank you and everyone else for your calls and your letters and flowers and baskets of food, all of which were a source of great strength and comfort to my family, my sisters and me, and honor the memory of the great lady I was blessed to have as my mom. So I thank you all for that.

AMENDMENT NO. 1142

Mr. President, Mom, most of all, would say: Life goes on. Every day get up and make the most of it. So I am very honored to have the opportunity on this day to join with Senator COLLINS in offering this amendment.

This amendment tracks S. 21, the Homeland Security Grants Enhancement Act, which was reported out of the Homeland Security and Governmental Affairs Committee in April with strong bipartisan support. Senator COLLINS and I believe that the ideas the committee endorsed represent the most balanced, constructive approach to supporting those all across America whom we ask to protect the rest of us from harm.

This amendment accomplishes many things, including the doubling of the amount of money that will be delivered to States and localities most at risk. It reduces the potential for waste. It authorizes adequate funding for our Nation's first responders whom the Senator from Maine has spoken of so eloquently. It establishes, for the first time, a comprehensive framework for supporting homeland security efforts by fully authorizing the essential grants programs that each year have, unfortunately, been left to the whims of the appropriations process and have left people all across America uncertain.

These are essential reforms to our grants process, made even more compelling by the knowledge—underscored by last week's bombing in London—that terrorists are out there, that they

will strike, and that we are involved in a world war. It is not like any world war before. But this enemy has a mission. It is to destroy as many of us as they can. And they will choose the battlefields, where they will choose them.

This amendment responds to that threat in a most direct and sensible way. We direct more money to the places that are at greatest risk of terrorist attack, that are most vulnerable, and where the consequences of an attack would be, obviously, disruptive to the people, to our economic well-being, and to our very way of life. In other words, the terrorists obviously strike without regard to the loss of life, innocent life, but they also want to disrupt our society and create fear.

This amendment responds to that threat in two ways: First, by guaranteeing a higher baseline level of funding to the largest and most densely populated States, States that are likely to be at more risk of attack and to suffer greater consequences if they are attacked and, second, by substantially increasing the funds we entrust to the Homeland Security Secretary's discretion to allocate based on an assessment of risk.

A key part of this amendment is also a desire to balance support for those cities and States at high risk without sacrificing the security of locations that may not be on the top of a target list today but could very well be in the future. That is because this amendment recognizes what I said a moment ago, that the terrorists aim to break our confidence, to create panic, to take advantage of the openness of our society. This is a big country. As a result, no matter how good our intelligence is, we cannot be certain that in every case—maybe even in most cases—we will be on notice about where the terrorists might strike next.

This amendment recognizes the fact that terrorists alter their methods of destruction, of murder, that one day they may strike fortified targets such as military facilities, as they have in Iraq and in Lebanon, and the next day they may strike soft targets, as they have and did when they blew up a discotheque in Indonesia or took hostages and brought an end to life at a school in Beslan, Russia.

Common sense, therefore, requires us to continue to build basic capacity to prevent and respond to attacks wherever they may occur in this country. And that means everywhere in this country. To build that capacity over time, State and local officials need some predictability of funding. They need to know when and how much assistance they are likely to receive from year to year if they are to do what their citizens expect them to do: to plan and carry out the best possible homeland security throughout America. This is a difficult balance to reach. But I feel confident that the Homeland Security and Governmental Affairs Committee has achieved that balance in this amendment.

First, we double the amount of dollars over current levels for grants based on risk. I want to emphasize that because some have criticized the committee action, saying we do not pay attention to the experts' predictions of risk. The fact is, we set aside over 60 percent of the total amount authorized in this measure to distribute to States and cities considered to be most vulnerable to a terrorist attack.

The rest of the money would be used to guarantee a minimum level of preparedness in every State, although more highly or densely populated States would get more money. So each State would be guaranteed a minimum of 0.55 percent of the total amount appropriated. The high- and dense-population States get a little bit more.

Beyond these formula changes, the amendment would streamline the State homeland security grant process, require better planning and therefore better spending, and add a dose of reality to the grants distribution process. Unlike the Department's current opaque and changeable approach for distributing the so-called Urban Area Security Initiative grants, this amendment, the Collins-Lieberman amendment, would allow metropolitan regions to apply for funding. The 100 largest metropolitan areas could apply. They enter automatically this pool of eligibles. And others could submit applications with the consent of their Governor and the Homeland Security Secretary.

Each applicant would have an opportunity to make its own case based on its specific risks, vulnerabilities, and needs. The Department of Homeland Security would award the grants based on merit. There would be no arbitrary limits on funding to areas that demonstrate they are at risk, such as the population cutoff the Department instituted this past year, saying that if you are not larger than a certain number of people you cannot qualify for the Urban Area Security Initiative, even if you have uniquely vulnerable assets, facilities in that area that in the normal course of exercise of due diligence would require extra support.

Our amendment would encourage cooperative planning and execution across jurisdictional lines by allowing at least two contiguous jurisdictions to submit a regional application. In addition to dedicating funding for the largest metropolitan areas in the country, our amendment would, for the first time, allow States to apply for risk-based funding and to make the case to the Secretary that there are threats to their jurisdiction that require additional grant money to address.

Another critical element of our amendment would be to require the Secretary of the Department of Homeland Security, in consultation with a task force of State and local first responders, to establish what we call essential capabilities—in other words, targets for the levels and quality of planning, people, and equipment different types of communities need to prevent, prepare for, and respond to acts of terrorism and other catastrophic events.

These essential capabilities will provide guidance to States and localities, but they also provide benchmarks for measuring State and national progress in achieving preparedness. Other accountability measures—because we are authorizing a lot of money to be spent here for a good reason, but we are requiring accountability as to how it is spent—include, for instance, an annual GAO audit and new, more robust reporting requirements for grant recipients and for the Department of Homeland Security. This amendment would also give the Secretary the authority to terminate or revoke grants if a recipient doesn't comply with the accompanying requirements.

We honor the old proverb that an ounce of prevention is worth a pound of cure. That is why, in the very contemporary context of the threat of terrorism, our amendment dedicates 25 percent of authorized funds to strengthen law enforcement efforts that are made to prevent attacks before they occur. We have 700,000 pairs of eyes and ears on the ground in every community across this Nation. What am I speaking about? Local law enforcement officers. They are our foot soldiers, our boots on the ground in the war on terrorism. But too often, up until now, they have been left on the sidelines. The brake that stops that next attack on New York, Washington, Los Angeles or any small or mid-size community across America may well come from the alert work of a police officer many thousands of miles away.

Senator COLLINS mentioned some of the small communities across America that tragically played critical roles, inadvertently, in all the activity that led up to the September 11 attacks against us. We quite simply cannot afford to waste the talents of any law enforcement officer in America. So we have to do what we can to facilitate, encourage, and support their vigilance on our behalf.

Finally, our amendment authorizes $2.9 billion in funding for fiscal years 2006 and 2007. That is the same level—not higher—as provided in fiscal year 2004. Unfortunately, the trend for State homeland security funding is pointing down, not up, even as we understand that the threat remains at least as great as it has been up until now, perhaps even greater. But at least a $2.9 billion authorization will send a strong message that we will provide reliable and consistent funding to get the job done at the local level and the State level, that we will not begin to chip away at the funds that our allies at the State and local level can expect from the Federal Government.

Our amendment improves upon the current approach and upon the approach spelled out—I say with respect—in the underlying appropriations bill. That is why the Collins-

Lieberman amendment has received support, for which the Senator from Maine and I are grateful and honored, from the National Association of Police Organizations, the International Association of Chiefs of Police, the International Union of Police Associations, the National Troopers Coalition, the National Fire Protection Association, the National Association of Development Organizations, and many others—all support this amendment. This is an expression of support. Indeed, I think it should be taken as a plea for support by these organizations that represent a broad swath of law enforcement officers at the State and local level across America.

This amendment is a considered approach to the administration and distribution of homeland security grants. We believe it strikes the right balance between not only risk and population, high-risk areas, according to the experts, and other areas that may well be at risk as we go forward, but also risks between providing flexibility and ensuring accountability. Most importantly, it provides our Nation's first responders, who are also first preventers in our war against terrorism, with a solid, long-term platform of support.

It has, once again, been a great pleasure to work with my friend and colleague, Senator COLLINS of Maine, chairman of our committee. We were grateful for the overwhelming bipartisan support of the committee for this measure when it came out of committee as S. 21. We thank our colleagues for that.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank my friend and colleague from Connecticut for his excellent statement. We have worked very hard on this issue for the past 3 years. It is my hope that our colleagues will recognize the work that has gone into this measure, whether it is coming up with a fair and balanced—I guess that phrase maybe has weight toward it—carefully crafted formula or whether it is the accountability measures that are in the bill that I also believe are so important. Another member of our committee who has been a stalwart supporter of the bill and has worked very hard in shaping many of its provisions from his perspective as a former mayor of a major city is our colleague from Minnesota, Senator COLEMAN. I am very pleased he is here to speak on behalf of the bill.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I thank my colleagues, the chairman from Maine and the ranking member from Connecticut, for the hard work they have done in working in a bipartisan way and coming up with important, practical, commonsense ways to deal with the threats to homeland security that deal with the threats to major urban centers, that deal with the opportunity—I want to talk about this a little bit today—and the importance of working on a regional basis.

As a Senator from Minnesota, I represent the Twin Cities. I will talk a little bit about the Twin Cities, Minneapolis and St. Paul, the experience they had dealing with the urban area security initiatives under the present system. The system needs improvement.

I rise today to offer my support for the bipartisan amendment offered by Senator COLLINS and Senator LIEBERMAN that will streamline and rationalize the State homeland security grant process. My State has a wide range of homeland security interests. We share an international border with Canada. We have two major cities in Minneapolis and St. Paul. We have two nuclear reactors in Red Wing and Monticello. We have a major port in the city of Duluth on Lake Superior, connected through the Great Lakes system to the St. Lawrence Seaway and the Atlantic Ocean.

Unfortunately, Minnesota witnessed an average 48-percent reduction in the allocation of Federal homeland security dollars for this year. In addition, when the urban security initiative grants were first announced, Minneapolis's funding was cut from $12.2 million to $5.7 million, and St. Paul's funding was completely eliminated. I am not here to complain about cuts in funding. I am here to raise concerns about the present system, as my colleague from Connecticut discussed, how opaque and changeable it is, and the difficulty of urban centers in planning to meet homeland security needs.

As my colleague from Maine indicated, I am a former mayor. I had hands-on involvement in this process. You need a greater measure of certainty. When you talk about communities such as Minneapolis-St. Paul, it is important to understand that you are dealing with regional concerns, that you cannot cut out one city because it is slightly smaller in size than the other city. I grew up on the east coast. I moved to the Midwest 31 years ago. When I moved to the Midwest, when I moved to St. Paul 1976, my mom, who was still in Brooklyn, thought the Twin Cities were Minneapolis and Indianapolis. She didn't realize it was Minneapolis and St. Paul. I excuse my mom. She didn't spend a lot of time out of Brooklyn in those days. But I expect more from the Department of Homeland Security. And in 2004 and 2005, anyone who looks at a map knows the Twin Cities and understands they work hand in hand. They are regional centers. They are divided by the Mississippi River, but they are connected essentially. They share a bus system, an airport, a land grant university. They both have significant major fire departments that coordinate with each other, particularly in dealing with issues of hazardous materials. The two cities work together on responses for infectious disease outbreaks and other public health threats.

Fortunately, the Department of Homeland Security, after much concern was raised by the process this year, granted St. Paul eligibility to share in Minneapolis's funding for this year. I don't think you can have effective homeland security when cities endure wild fluctuations in funding such as the 71-percent reduction the Twin Cities face this year. So the Collins-Lieberman amendment makes common sense, practical changes to the homeland security grant process to ensure continuity and accountability in terms of money distributed to States and cities.

Again, you can't do homeland security well if you are involved in a process that is opaque, that is changeable, that is prone to the wild fluctuations. This amendment wisely encourages regional cooperation by moving the focus of local funding from individual cities to metropolitan regions. Again, the Twin Cities are an ideal example of that. The reality is that, God forbid we faced a major terrorist attack in the Twin Cities or in one of the surrounding suburban areas, the Mall of America, one of the largest tourist attractions in the United States, 35 million people a year right outside the Twin Cities, if that were ever subject to a terrorist attack, clearly the departments of Minneapolis and St. Paul would be responding to those concerns. That is the world in which we live. We cannot isolate ourselves and live in little bubbles anymore. So the importance of focusing on the regional level reflects the reality of the world in which we live and the geographical reality, and it simply makes sense.

Under the new formula, communities are given considerable flexibility in forming regions that make the most sense locally. I would encourage other areas such as Minneapolis-St. Paul to do that, to understand that it is important to be able to combine resources, to maximize resources to deal with common threats to the region. Within the amendment, a region must be made up of two or more neighboring municipalities, counties, parishes or Indian tribes and must include the largest city in the metropolitan area. This will enable cities such as Minneapolis and St. Paul to be considered as one region rather than separate entities and benefit from the same funding stream. This makes sense.

For our Nation to be prepared, all States must be able to meet a basic level of preparedness. This amendment will double the funds that would be distributed based on threat, risk, and need while maintaining a predictable and meaningful level of funding for each State.

A predictable stream of funding is critical for States and local and tribal jurisdictions to embark on a long-term strategy of preparedness. That is the path we are on in a world in which we are so much more vulnerable. We need to plan as well as we can—plan for the long term—and to have a strategy of

preparedness and to encourage cities and municipalities, counties, parishes, and Indian tribes to work together to meet the threats that are out there.

We currently require States to submit 3-year plans to the Department of Homeland Security and it is unrealistic to expect States to effectively plan ahead without providing some certainty on the funding they should expect to receive.

This amendment also creates new audit provisions, requires mandatory reporting, coordination among grant programs at different Federal agencies, and that individual expenditures be tied to achieving nationally established essential capabilities. So we are tying funding to meeting needs that are out there, tying funding to maximizing coordination, tying funding to achieving certain levels of preparedness. Tying spending to achieving national preparedness goals and holding States accountable to how funds are spent will prevent wasteful expenditures on other items that are not needed. Homeland security funding is not simply about getting more equipment in a Federal agency; it is not a Christmas tree; it is meeting needs. What we have in this amendment is to measure and make sure spending is tied to meeting the levels of preparedness and effectiveness. Requiring coordination among different Federal grant programs for first responders will prevent recipients from purchasing duplicative or incompatible equipment or training. The bottom line is that homeland security dollars will be spent more wisely and effectively, and that is what we should be doing.

This amendment is a great step forward in terms of contributing funds on a regional basis and ensuring that communities have the tools they need to work together to provide greater security for their residents. I look forward to supporting this amendment today and I urge my colleagues to support it as well.

I yield the floor.

Mr. AKAKA. Mr. President, I rise today in support of the amendment offered by Senators COLLINS and LIEBERMAN that would provide for homeland security grant coordination and simplification. I wish to thank them both for working with me and the other Members of the Senate Committee on Indian Affairs to include a provision in their amendment that is very important to Indian Country.

This amendment is based on S. 21, the Homeland Security Grant Enhancement Act, a bill that was reported out of the Homeland Security and Governmental Affairs Committee favorably and of which I am an original cosponsor. S. 21 recognizes that no State is immune to terrorist attack by requiring that each State receive at minimum .55 percent of appropriated funding. This is important to States like Hawaii that are smaller in population, but still have critical assets that need to be protected.

The Collins-Lieberman amendment also ensures that Indian tribes have access to homeland security funding. With more than 50 million acres of land comprising Indian Country, which includes dams, hydroelectric facilities, nuclear power generating plants, oil and gas pipelines, transportation corridors of railroad and highway systems, and communications towers, tribal governments need to have funds to protect and respond to threats of terrorism. Although the Homeland Security Act of 2002 included tribal governments in the definition of ''local governments,'' this distinction has not guaranteed that tribal governments are consulted or involved in the protection of the United States. Nor does the act ensure that Indian Country will receive critical information regarding potential terrorist threats, and more importantly, the act does not give tribal governments the authority to detain potential terrorists who are found in Indian Country.

While the amendment does not fully address the homeland security problems that some tribal governments are experiencing, it is a bipartisan compromise that at the very least will ensure that Indian tribes with critical homeland security needs will be able to apply directly to the Department of Homeland Security for risk-based homeland security grants.

I am pleased that my colleagues recognize that tribes should have the same access to homeland security funding as the rest of the country. This is an important first step for Indian Country to address homeland security issues.

Again, I thank Senator COLLINS and Senator LIEBERMAN for their work on this amendment.

The PRESIDING OFFICER. The Senator from Maine is recognized.

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

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

EXPRESSING SYMPATHY FOR THE PEOPLE OF THE UNITED KINGDOM

Mr. FRIST. Mr. President, last Thursday, a series of four explosions struck the heart of London during the morning rush hour. At least 49 innocent victims were killed and 700 others were injured. A previously unknown group called the ''secret group of al-Qaida's jihad'' in Europe claimed responsibility in the name of al-Qaida for the attacks.

On behalf of the U.S. Senate and the American people, we express our heartfelt condolences to the victims, their families, and to the British people, our cousins across the Atlantic. We share in your grief and in your determination to hunt down the criminals who carried out this despicable act. We consider the attack last week on British soil an attack on the civilized world. We stand with the British people just as they have long stood with us.

For nearly two centuries, the United States and the United Kingdom have enjoyed a special relationship. We speak the same language. We share a heritage of freedom and our economies are inexorably intertwined. Our militaries, our intelligence services, our great corporations, and our distinguished universities share deep relationships. Today, our forces fight side by side in Iraq and Afghanistan, sharing the sacrifices and the victories.

As we learned on 9/11, our enemies are coldblooded killers who deliberately target innocent victims—women and men on their way to work, schoolchildren starting the new school year, and vacationers at the beach.

Our enemies pervert religion. They despise freedom. They seek to overthrow regimes and dominate the world. But as they learned on 9/11, America, the United Kingdom, and the free people of the world will not stand by. We are taking the fight to their soil, to their caves, to their hideouts. We are disrupting their terror cells and financing operations. We are strengthening our homeland defenses and sharing information among intelligence agencies and nations.

Brave men and women are working every day to thwart the enemy, to find him and bring him to justice. But as President Bush observed today, the terrorists need to be right only once. Free nations tend to be right 100 percent of the time. They need to be. And the best way to defeat the enemy is to stay on the offense.

We will call upon the international community to renew and strengthen its efforts to defeat the terrorists, dismantle their networks, and to drain the swamps of injustice, oppression, poverty, and extremism that feed their hateful ideology.

In the war on terror, we will not stop. We will not waiver. We will stand united against the enemies of freedom. And whatever it takes, wherever it takes us, we will win.

Mr. President, under the previous agreement, we will now have a moment of silence in memory of those whose lives were lost.

The PRESIDING OFFICER. The Senate will recognize 1 minute of silence.

(The Senate observed a moment of silence.)

The PRESIDING OFFICER. Under the previous order, the Senate will now consider S. Res. 193. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 193) expressing sympathy for the people of the United Kingdom in the aftermath of the deadly terrorist attacks on London on July 7, 2005.

Mr. FRIST. Mr. President, I ask for the yeas and nays on the adoption of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

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

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Texas (Mr. CORNYN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Oklahoma (Mr. INHOFE), the Senator from Mississippi (Mr. LOTT), the Senator from Florida (Mr. MARTINEZ), the Senator from Arizona (Mr. MCCAIN), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Alabama (Mr. SESSIONS), the Senator from Oregon (Mr. SMITH), the Senator from Wyoming (Mr. THOMAS), and the Senator from South Dakota (Mr. THUNE).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER), and the Senator from Alabama (Mr. SESSIONS) would have voted ''yea.''

Mr. DURBIN. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from California (Mrs. BOXER), the Senator from Minnesota (Mr. DAYTON), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Florida (Mr. NELSON), the Senator from Illinois (Mr. OBAMA), and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

I further announce that if present and voting, the Senator from California (Mrs. BOXER), and the Senator from Arkansas (Mr. PRYOR) would each vote ''yea.''

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

The result was announced—yeas 76, nays 0, as follows:

[Rollcall Vote No. 173 Leg.]

YEAS—76

Akaka	Dole	Lieberman
Allard	Domenici	Lugar
Allen	Dorgan	McConnell
Bennett	Durbin	Murray
Biden	Ensign	Nelson (NE)
Bingaman	Enzi	Reed
Bond	Feingold	Reid
Brownback	Feinstein	Roberts
Bunning	Frist	Rockefeller
Burns	Graham	Salazar
Burr	Grassley	Santorum
Byrd	Gregg	Sarbanes
Cantwell	Hagel	Schumer
Carper	Harkin	Shelby
Chafee	Hatch	Snowe
Clinton	Inouye	Specter
Coburn	Isakson	Stabenow
Coleman	Jeffords	Stevens
Collins	Johnson	Sununu
Conrad	Kennedy	Talent
Corzine	Kerry	Vitter
Craig	Kohl	Voinovich
Crapo	Kyl	Warner
DeMint	Lautenberg	Wyden
DeWine	Leahy	
Dodd	Levin	

NOT VOTING—24

Alexander	Hutchison	Murkowski
Baucus	Inhofe	Nelson (FL)
Bayh	Landrieu	Obama
Boxer	Lincoln	Pryor
Chambliss	Lott	Sessions
Cochran	Martinez	Smith
Cornyn	McCain	Thomas
Dayton	Mikulski	Thune

The resolution (S. Res. 193) was agreed to.

The preamble was agreed.

The resolution, with its preamble, reads as follows:

S. RES. 193

Whereas the United States and a broad international coalition have been engaged in a Global War on Terrorism since the terrorist attacks in Washington, D.C., New York, and Pennsylvania that occurred on September 11, 2001;

Whereas the people and Governments of the United States and the United Kingdom enjoy a deep and enduring friendship undergirded by shared history, language, and values;

Whereas the United Kingdom has been a strong and steadfast ally to the United States through two World Wars, the Cold War, the Gulf War, and the Global War on Terrorism, including the wars in Afghanistan and Iraq;

Whereas terrorists have planned and conducted attacks around the world during the four years after the Global War on Terrorism began in 2001, most notably the bombing of a night club on the Indonesian island of Bali on October 12, 2002 that killed 202 people and injured an additional 209, the bombings of two synagogues and the British Embassy in Istanbul, Turkey in November 2003, in which 56 people were killed and over 450 injured, and the bombing of the train system in Madrid, Spain on March 11, 2004 that killed more than 190 people and injured approximately 1,500;

Whereas on July 7, 2005, a series of four explosions struck the London public transportation system during the morning rush hour, killing at least 49 innocent civilians and injuring approximately 700 others;

Whereas a previously unknown terrorist group claimed responsibility for the attacks in the name of al Qaeda;

Whereas the terrorist attacks in London coincided with the opening of the G-8 Summit in Gleneagles, Scotland, a Summit committed to bringing help and hope to the poorest countries of the world;

Whereas President Bush immediately condemned the terrorist attacks and extended the ''heartfelt condolences'' of the people of the United States to the people of the United Kingdom;

Whereas Prime Minister Tony Blair vowed, on behalf of the United Kingdom and the world leaders attending the G-8 Summit in Gleneagles, Scotland, to remain steadfast and strong in the fight against terrorism, stating, ''All of our countries have suffered from the impact of terrorism. Those responsible have no respect for human life. We are united in our resolve to confront and defeat this terrorism that is not an attack on one nation, but all nations and on civilized people everywhere. . . . It's important . . . that those engaged in terrorism realize that our determination to defend our values and our way of life is greater than their determination to cause death and destruction to innocent people in a desire to impose extremism on the world'', and declared, ''We shall prevail, and [the terrorists] shall not'';

Whereas the North Atlantic Council, the governing body of the North Atlantic Treaty Organization, after meeting in an extraordinary session, reaffirmed the determination of the members of the North Atlantic Treaty Organization to combat the scourge of terrorism and defend the values of freedom, tolerance, and democracy using all available means;

Whereas world leaders attending the G-8 Summit in Gleneagles, Scotland expressed condolences to the people of the United Kingdom and issued a joint statement to ''condemn utterly these barbaric attacks''; and

Whereas Prime Minister Tony Blair, speaking on behalf of the world leaders attending the G–8 Summit in Gleneagles, Scotland, declared, ''We are united in the resolve'' to defeat terrorism, which is ''not an attack on one nation, but on all nations'': Now, therefore, be it

Resolved, That the Senate—

(1) expresses deepest sympathies and condolences to the people of the United Kingdom and the victims and their families for the heinous terrorist attacks that occurred in London on July 7, 2005;

(2) condemns these barbaric and unwarranted attacks on the innocent people of London;

(3) expresses strong and continued solidarity with the people of the United Kingdom and pledges to remain shoulder-to-shoulder with the people of the United Kingdom to bring the terrorists responsible for these brutal attacks to justice; and

(4) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedoms, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that breeds terrorism.

(At the request of Mr. DURBIN, the following statement was ordered to be printed in the RECORD.)

● Mrs. BOXER. Mr. President, on the way from California to Washington this morning, my plane had engine trouble, and I had to return to California. As a result, I was not able to make the vote on the resolution condemning the terrorist bombings in London last week and expressing sympathy for the people of the United Kingdom.

Had I been present, I would certainly have voted for the resolution. I hope that it serves to strengthen our resolve to go after the terrorists and to do everything we can to protect the people of the United States, particularly by doing more to secure our rail and transit systems.●

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

● Mrs. LINCOLN. Mr. President, on Monday, July 11, 2005, I testified before the Base Closure and Realignment Commission regional hearing in San Antonio, TX, regarding Department of Defense recommended changes to military installations in Arkansas and Texas. Therefore, I was absent during vote No. 173 on the Senate Resolution condemning the terrorist attacks in London on July 7 and expressing sympathy for the victims, their families and the people of the United Kingdom.

Had I been present, I would have voted yea in support of this resolution.●

The PRESIDING OFFICER. Who seeks recognition? The Senator from New Hampshire.

Mr. GREGG. Mr. President, at this point, just to inform the membership, what is going to happen is Senator FEINSTEIN is going to introduce an amendment, and then Senator ISAKSON is going to take time to speak to his amendment.

Tomorrow morning, we hope to reach an agreement where Senator FEINSTEIN's amendment will be debated along with the amendment of Senator COLLINS for up to 3 hours evenly divided, and then we will have votes on those two amendments.

I yield the floor.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I thank the distinguished Senator from New Hampshire, the chairman of the subcommittee. I will very shortly propose an amendment which will stand next to Senator COLLINS's amendment.

The purpose of my amendment is simple. It provides that the Secretary of Homeland Security will ensure that Homeland Security grants are allocated based on the assessment of threat, vulnerability, and consequence to the maximum extent practicable.

This amendment dovetails S. 1013 which Senator CORNYN and I submitted earlier. Cosponsors are Senators LAUTENBERG, BOXER, HUTCHISON, KERRY, MARTINEZ, SCHUMER, NELSON of Florida, CLINTON, CORZINE, KENNEDY, and DODD.

AMENDMENT NO. 1215 TO AMENDMENT NO. 1142

(Purpose: To improve the allocation of grants through the Department of Homeland Security, and for other purposes)

I send this amendment to the desk and ask it be set aside until 10 a.m. tomorrow morning.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mr. CORNYN, Mr. LAUTENBERG, Mrs. BOXER, Mrs. HUTCHISON, Mr. KERRY, Mr. MARTINEZ, Mr. SCHUMER, Mr. NELSON of Florida, Mrs. CLINTON, Mr. CORZINE, Mr. KENNEDY, and Mr. DODD, proposes an amendment numbered 1215 to amendment No. 1142.

Mrs. FEINSTEIN. I ask unanimous consent to dispense with the reading of the amendment.

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

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

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I ask unanimous consent the pending amendment be set aside and my amendment be called up.

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

AMENDMENT NO. 1070

Mr. ISAKSON. Mr. President, I call up my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 1070.

Mr. ISAKSON. I ask unanimous consent the reading of the amendment be dispensed.

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

The amendment is as follows:

(Purpose: Expressing the sense of the Senate that inadequacies in border protection and alien and drug smugglers' methods, routes, and modes of transportation are potential vulnerabilities that can be exploited by terrorists to illegally smuggle terrorists and their weapons into the United States, surveillance of the entire border between the United States and Mexico is essential to protect the United States, and the Mexican Government must commit to addressing its own domestic border security policies, which contribute to the present inadequacies in our Nation's homeland security)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING BORDER SECURITY.

(a) FINDINGS.—Congress finds the following:

(1) The illegal alien population has risen from 3,200,000 in 1986 to 10,300,000 in 2004.

(2) In fiscal year 2001, United States Border Patrol agents apprehended almost 1,200,000 persons for illegally entering the United States.

(3) Senate Report 109–083 states, ''there are an estimated 11,000,000 illegal aliens in the United States, including more than 400,000 individuals who have absconded, walking away with impunity from Orders of Deportation and Removal''.

(4) Between 1,000 and 3,000 special interest aliens from countries with an active terrorist presence enter the United States each year.

(5) Of the 1,200,000 illegal aliens apprehended on the border between the United States and Mexico, 643 were from countries with known terrorism ties, including Syria, Iran, and Libya.

(6) Senate Report 109–083 states, ''officials of the Department of Homeland Security have conceded the United States does not have operational control of its borders'', including areas along the 1,989-mile southwest border between the United States and Mexico.

(7) The daily attempts to cross the border by thousands of illegal aliens from countries around the globe continue to present a threat to United States national security.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) this Nation cannot thoroughly address the security of the United States without recognizing the reality of terrorists taking advantage of inadequacies in border security along the border between the United States and Mexico;

(2) every effort should be made to increase the technology and efficiency in preventing these individuals from entering the United States across the Mexican border;

(3) the Mexican Government has an obligation to secure its side of the border between the United States and Mexico; and

(4) the Mexican Government must commit to addressing inadequacies in its own domestic and border security policies, which are contributing to the present dilemma in border security.

Mr. ISAKSON. I express my appreciation to the subcommittee chairman, Senator GREGG of New Hampshire. It is my understanding from the chairman that it has been agreed to accept the amendment.

Mr. GREGG. Mr. President, I believe the Senator can ask unanimous consent for approval.

Mr. ISAKSON. I ask unanimous consent the amendment be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 1070) was agreed to.

Mr. ISAKSON. Mr. President, the amendment is a sense-of-the-Senate amendment to the Homeland Security Appropriations bill dealing with border security. I commend the subcommittee chairman on the tremendous investment this bill makes in homeland security and in border security to the United States of America.

A few months ago when I made one of the first speeches in the Senate with regard to the floor supplemental, I talked a little bit about REAL ID and what is the largest single domestic issue in the United States today, illegal immigration.

In that particular speech I made a note that I love our system of immigration, love the fact you can come to this country and become a citizen—I am a second-generation American myself—but we have been flooded as a nation over the past decade by a tremendous influx of those who have come illegally, many over the border of the south, although obviously to the north as well.

This goes a long way toward providing the funding to Customs and to Immigration to begin enforcing laws on the books, making it tougher to come into the United States the wrong way and hopefully making it easier to come to the United States the right way, the legal way.

We need a partner on our southern border. The sense-of-the-Senate amendment is very simple. It simply asks the Government of Mexico to assist in helping to secure the border between the United States and Mexico to ensure that those who immigrate into this country are coming in consistent with the laws of the United States of America.

We have a great trading partner to the south. We have a great neighbor to the south. We have a country that shares many common interests. We have a country that we enjoy being our neighbor. We also would like for them to be our partner in seeing to it that the border we share is secure so that those who are crossing are crossing legally and consistent with the laws of that nation.

I thank the subcommittee chairman for his cooperation. I thank the Senate for agreeing to this amendment. I am pleased we can express this sense of the Senate that the common interest of

both countries is in the best interests of America when it comes to the border security between ourselves and the country of Mexico.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent the following Senators be added as cosponsors of the Collins-Lieberman amendment No. 1142: Senator REED of Rhode Island, Senator BINGAMAN, and Senator HARKIN.

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

Ms. COLLINS. This is in addition to the cosponsors previously cited.

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

Mrs. CLINTON. Mr. President, I rise today to discuss the fiscal year 2006 Homeland Security appropriations bill.

Protecting the security of our people and our homeland is the most important responsibility that any Member of this body possesses. It is, therefore, our solemn obligation to review this bill carefully and make certain it adequately addresses our Nation's vulnerabilities.

The question should be, Have we done all that we can do to make America safe? Now, obviously, none of us can look into the minds, the perverted minds of the terrorists and know everything they might do to harm us or people around the world, as we saw again in London last week. But I think we do have an obligation to do all we can. Does that mean even after we do it there will never be an attack? Of course not. But we have to try, to the best of our human ability, to protect our citizens and make our Nation safe by deterring, detecting, and preventing terrorist attacks.

I believe—and I am sure many of my colleagues would agree—that to make America truly safe we need to carefully allocate our homeland security resources. We need to make sure the money we appropriate in Congress gets to where it is most needed; that the American cities, States and places that are under the greatest threat, that are most vulnerable, receive the funding they need to be protected.

I have advocated for threat-based allocation of homeland security funds for several years now. Last year, the 9/11 Commission made a very specific recommendation. It urged Congress to base Federal funding for emergency preparedness solely—solely—on risks and vulnerabilities.

Over the last 4 years, the Department of Homeland Security and its agencies have provided $11.3 billion to State and local governments to prevent, prepare for, and respond to acts of terrorism. Additionally, $3.2 billion in grants and other assistance provided by other Federal agencies has also gone to State and local responders to take on the terrorist threat.

Unfortunately, nearly half of this $14.5 billion has been allocated according to congressionally mandated formulas that bear little relation to need, risk, vulnerability, or threat.

Last September, when the Senate took up consideration of the Intelligence Reform and Terrorism Prevention Act of 2004, I offered an amendment to require the Secretary of Homeland Security to allocate formula-based grants to State and local governments based on an assessment of threats and vulnerabilities, in accordance with the recommendations of the 9/11 Commission.

Although the amendment was tabled, I am thankful, as are I am sure millions of my fellow Americans who live in high-threat communities, that the President has finally heard our concerns. He proposed, in the fiscal year 2006 budget, a restructuring of $2.6 billion in grants for States, urban areas, and infrastructure protection. Under the President's proposal, DHS, the Department of Homeland Security, will target grants to fill critical gaps in State and local terrorism prevention and preparedness capabilities, taking into consideration threats and vulnerabilities.

While I am not completely satisfied with the formula—of course I could not be, representing New York, which remains, by all the intelligence we are privy to, the No. 1 target of the terrorists in our country—I am pleased by the recognition of the President and Secretary Chertoff that we are now called upon to look at threat-based funding. That is indeed welcome news.

While this bill we are considering makes important steps toward securing our homeland, there are certainly some deficiencies that we cannot afford to ignore. Last week's tragic events in London highlighted one of our Nation's most glaring homeland security deficiencies—the vulnerability of our rail and transit systems.

We have seen these senseless, evil terrorist attacks in Japan, Russia, Spain, and now England. These attacks, like the one that struck our own country on 9/11, hit when innocent people were going about their everyday lives. All of these cowardly acts were not merely attacks on individuals but an attack on a way of life.

These attacks on the subway and transit systems around the world are a clear signal to this Congress that we have to fill this glaring hole in our national security budget.

Now, our resolve to stand against these acts of terrorism will not waiver. But courage and determination is not enough. We must also commit, with equal force, to developing a comprehensive plan and allocating adequate resources to guard against similar attacks in our own cities and States.

I know there are some who argue against increasing the funding for homeland security because they say: Well, we can't possibly guard against every risk and vulnerability. I read a comment by one think tank pundit who said: We can't childproof our Nation.

Well, childproofing a home when a new baby arrives is something I take very seriously. I think most parents do as well. We go out and we buy those little plugs to put into outlets. We move to a higher shelf household cleaners and poisons. We go out and maybe buy one of those little gates to put at the top and bottom of stairs. We obviously take steps to childproof our homes.

Starting in the 1970s, responsible parents got some help from the Federal Government, which, looking at the evidence, determined that a lot of children were getting into the prescription pills of their parents and suffering severe injury, even death. So along came the childproof top that made it very difficult for little hands to open those dangerous pill bottles. And other steps were taken so that responsible parents could have some control over the circumstances in their homes and in their communities that their children would face.

Does that mean every risk facing every child was eliminated? Of course not. But we saved a lot of lives. We protected a lot of children. We provided a lot of peace of mind to many mothers and fathers.

So when somebody in a kind of offhand, critical way says, ''What do these people expect when they call for more money for rail and transit security or for border security or for chemical plant security? They are trying to childproof the Nation,'' I view that as an ignorant insult. Of course we are trying to protect our Nation. That is our highest obligation. We know we cannot protect against everything, but we have to do all we can to make sure every community is as protected as we can make it.

We know from every expert who has looked at rail and transit security that we are woefully underfunding it. In fact, based on the research and analysis I have seen, it would take approximately $7 billion to protect across this country the tens of millions of people who use our mass transit systems—our subways, our buses, our trains, our ferries—every single day to get back and forth to work, to go about their daily lives.

We know millions of Americans use this because they have to. It is convenient. It is inexpensive. It fills their needs. In New York, we have millions and millions of New Yorkers who ride the bus and the subway and the ferries and the trains every single day. So when the tragedy struck in London, it was again a tragic wakeup call for our own country.

I know we cannot provide all the funding that many of us believe is necessary to take the steps required to protect our transit systems. But we certainly must do more than the $100 million currently in the Senate bill. I am grateful the Senate majority leader has recognized the bill's reduction from last year's $150 million to $100 million was a step in the wrong direction and that at a minimum we need to restore the $50 million that was cut.

If we look at how much money has been spent on airline security, we find it totals $18 billion. We all know that following the attacks of 9/11, spending that money on airline security was absolutely necessary. Some of it went a little overboard—people who have no profile of fitting any kind of terrorist identity being strip-searched or being stopped or people going through all the security—but we spent that money because we knew we had to deter those people who might wish us ill by using our air against us.

We simply cannot continue to shortchange rail and transit security. More people are riding our transit systems than ride our airplanes and commercial aviation.

Last October, the Senate passed the Rail Security Act of 2004. The bill was introduced by Senator MCCAIN, and I was proud to be an original cosponsor. That bill would have authorized Amtrak and New York to receive over $570 million to upgrade the six tunnels for better ventilation, electrical and fire safety technology upgrades, emergency communications and lighting systems, and emergency access and egress for passengers.

A couple of years ago I stood right in this spot with pictures of what the tunnels in New York look like. We now know one of the explosions in London took place in Kings Cross. The rescue workers have not even been able to get there yet. They are not even sure they have recovered all of the bodies.

We will learn from this horrible tragedy, and we will be able to do an even better job in what we need to do to protect tunnels and bridges and other essential infrastructure for our rail and transit systems. But I am bewildered because the $150 million we appropriated last year for rail and transit security has not yet been fully distributed by the Department of Homeland Security to the cities and the States that need it. Instead of being put to work on behalf of improved safety in our rail and transit systems, it is sitting on the ledgers of the Department of Homeland Security.

We need to spend that money, and we need to be smart about how we spend it. But the plans that city and State transit systems have developed can't be implemented if the Federal Government doesn't do its part.

I hope, as we consider the Homeland Security appropriations bill this week, we will support the amendments that increase funding for securing our Nation's rail and transit systems. I hope we will do so because it is the right thing to do and because the bombings last Thursday in London were such a tragic reminder of what we still need to do to protect our own homeland from senseless and barbaric actions of extremists.

I am proud to join Senators SHELBY, SARBANES, INOUYE, REED, and other colleagues in an amendment to add over $1.3 billion in additional rail and transit security grants. I am absolutely confident that our Nation is up to the task of securing our mass transit systems. I am absolutely confident that this body is capable of dedicating the resources necessary to get this essential job done. I hope this week proves that we are ready, we are willing, and we are able to do everything possible to protect our Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I want to add a comment or two to our colleague from New York. I believe in the fiscal year 2005 appropriations bill, which is currently in effect, there was about $150 million that could be used for improving transit and rail security. I believe, as of last week, none of that money had been allocated. I hope that is not true, but that is what I have been briefed by my staff. None of that $150 million has been allocated. One has to wonder what it takes. I fear that it may take some tragedy to really get our attention, the attention of the executive branch to begin allocating the money and putting it where it can do the most good most promptly.

As I understand it, the administration has asked for no appropriation in their budget proposal for fiscal 2006 for rail security and transit security. The committee has put in $100 million for that purpose, and I believe the committee has agreed to raise it to the current level of appropriation of $150 million. But if the administration is not going to spend the money, what good does it do for us to allocate. It is very disappointing. I hope it is not true, but I am afraid it probably is.

I thank my colleague for bringing this to our attention and join her in saying we can do a lot better and we have to.

Some time tomorrow, we are going to have the opportunity to vote on several options for allocating aid to first responders in our 50 States, firefighters, police, paramedics, and others who are first on the scene. When tragedy strikes and that tragedy happens to be a strike launched by terrorists, they will be the first to be there, whether it is Delaware, Missouri, New York, or any other State.

I rise to express my strong support for an amendment that is going to be offered tomorrow by Senators COLLINS and LIEBERMAN. That amendment seeks to streamline the system for distributing first responder aid to States, tries to make the system more fair, and seeks to ensure that every State, large or small, receives the funding that may be needed to respond to terrorist attacks and to other disasters.

Senator COLLINS and I have been working with Senator LIEBERMAN and other members of the Homeland Security and Governmental Affairs Committee on this issue for some time. In fact, Senator COLLINS and I first introduced legislation on this topic more than 2 years ago. That original bill came after a series of hearings we held in our committee, highlighting the fact that the way we help States prepare for disasters simply makes little sense. The application process is lengthy and confusing. More importantly, the funding formula simply isn't getting money to those who need it the most.

States, counties, cities, and first responders all told us in one voice that we need to do something about it. Much of what Senator COLLINS and I and our colleagues did in that initial legislation a couple years ago to respond to the concerns is reflected in the amendment that will be offered tomorrow by Senators COLLINS and LIEBERMAN.

That amendment mirrors in many respects the bill that Senator COLLINS and I introduced 2 years ago. For example, the amendment streamlines the grant application process. It creates a one-stop shop within the Department of Homeland Security where State officials and others can seek grant information. It also ensures that funds are distributed as quickly as possible and requires States to go through a planning process that would include both localities and first responders.

In addition, we take steps in this amendment to give States more flexibility in spending their first responder aid. Not every State is the same. Missouri's needs may be different than Delaware's. This amendment, as with our earlier bill, gives States the ability to ask for a waiver from the Department. If they want to use a little more money for training or equipment or exercises or planning, they can go to the Department and ask for a waiver to do so. One size does not fit all. This amendment, such as our earlier bill, acknowledges that.

Funding formulas are akin to what they used to say about beauty. Beauty is in the eye of the beholder. The beauty of a funding formula is oftentimes in the eye of the particular State that is eyeing the formula. I believe we have gone a long way toward addressing the concerns that some of our colleagues from more populous States have raised over the years. There were concerns among a number of Senators, both on and off the Homeland Security Committee, that the current program in our original legislation directed too much aid to smaller States, to less populated States, at the expense of larger States or more populated States and high-threat urban areas. I believe we have addressed those concerns.

A version of this amendment that was added by a unanimous vote to the intelligence reform bill last year provide additional allocations to the dozen or so largest States in the country. It also allowed the Secretary of Homeland Security to distribute a portion of the funding made available for State grants directly to the most at-risk urban areas. We go even further this year, further than some of the supporters of our original legislation might like to have gone. In an effort to shift even more funding to those parts

of the country most at risk, Senator COLLINS, Senator LIEBERMAN, and the rest of us who support their amendment have negotiated a new funding formula that actually reduces the baseline allocation or the so-called small State minimum guaranteed to every State.

Currently in the bill, it is 0.75-percent minimum for every State. The amendment that will be offered tomorrow by Senators COLLINS and LIEBERMAN and myself and others would take that minimum down to 0.55 percent. We have also added language in this amendment that gives the Secretary the discretion to allocate up to half of the available funds to big cities. In total, these efforts have resulted in what I think is a balanced formula that I am told allocates about twice as much aid on risk as we did in last year's appropriations bill.

There will be some who will argue that the baseline allocation in this amendment should be even smaller or that it should not exist at all. I respond to that argument by simply pointing out that my own home State of Delaware may be small. We may have a small population—about 800,000 people, in fact. That is more than about six States that are, frankly, bigger than us in size have. But Delaware is home to significant critical infrastructure such as chemical facilities, oil refineries, and one of the most important ports in the country, and those could be unfortunately on a terrorist target list.

Right across the Delaware River, about 15 miles from my home, are two nuclear powerplants. Up and down the northeast corridor we have I–95 carrying, each day, hundreds of thousands of cars, trucks and vans, including trucks carrying some dangerous material. We have the northeast rail corridor through which some of our largest freight railroads pass, again carrying all kinds of cargo, goods, including some which are hazardous, potentially a target to terrorists. We have the Delaware River, the Delaware Bay. Every day dozens of ships go up and down the Delaware River, any number of which carry cargo that could be considered hazardous.

My staff and I have talked to any number of public safety officials in Delaware. Here is what they tell us. They tell us that they are not getting the resources they need to enable them to respond to incidents that the Department of Homeland Security itself has told us have a real possibility of happening in our State. I am sure many of my colleagues from States large and small could share similar stories with us, and they probably will during the course of this debate. That is one reason why we need to approve this amendment.

I urge all of our colleagues to support this compromise amendment. It does the best job of any proposal that I have seen at getting the most at-risk parts of our country the first responder aid that they need without arbitrarily shortchanging smaller States like Delaware that may be small in size but the risk profile belies the modest size in population.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 1129

Mr. AKAKA. Mr. President, I rise today to address the VA health care system's funding crisis. I thank my colleague, the Democratic leader, Senator REID, for his determination to ensure that $1.5 billion is provided as soon as possible. At this point, it is widely known that VA is facing a tremendous funding shortfall this year. What we need to do now is ensure that VA gets these funds as expeditiously as possible.

I am glad the administration has admitted that there is a shortfall. But I point out that VA officials have proven themselves to be an unreliable source of information. And judging by the supplemental sent forward by the President, they are less than generous, and frankly, less than accurate. The $975 million now proposed by the administration—and carried forward by the House—falls short of addressing all of VA's problems.

You need only look at the administration's own estimate for new costs associated with returning service members. VA now believes that 103,000 more veterans will be treated this year. The cost of treating this kind of patient is $5,437 a year, as documented by VA data. Yet, the administration wants to now convince us that, in fact, the cost of treating a patient is less than half of this amount. Again, using VA data, the cost of caring for an additional 103,000 returning veterans is $560 million and not the $273 million suggested by the administration. Other key programs such as readjustment counseling and dental care were also not sufficiently covered by the House in the VA supplemental.

It is imperative that we make sure the funds we provide now are truly sufficient, so we do not face this situation again. It is simply not right to use out-of-date equipment to treat veterans or force them to wait months for care.

The Senate has already spoken in a very bipartisan manner on this issue. We are all very proud of our effort to arrive at the $1.5 billion figure previously agreed to before the July Fourth recess. Given the House's work to provide less than the full amount needed, it is clear that we have more work to do for this year.

The battle for next year's funding will be upon us shortly. During the budget resolution debate in March, I offered an amendment to increase VA's funding by $2.8 billion for next year. I stood before this body and outlined the case for a significant increase for VA. But we were rejected because the administration claimed VA needed far less. Yet we are back to square one with regard to next year's funding.

Then, again, during the war supplemental debate in April—while VA remained silent as they were beginning to see warning signs—we were defeated in our efforts to secure more funding for this year. Again, this was because the administration failed to be forthcoming about the struggles that VA providers and patients were facing.

Hopefully, we all learned a clear lesson from this experience, that communicating with health care providers in the field and with the Veterans Service Organizations is invaluable. They told us what was really going on months ago.

I know my colleagues agree that we do not want to see this scenario repeat itself yet again. We have pressed this issue, and now we have another opportunity to finally fix the problem and fulfill our promise to this Nation's veterans. At the very least, this crisis has resulted in longer waiting times for care, hiring freezes, and delayed upgrading of medical equipment and facilities, to name a few.

This amendment is one way to fix the VA funding crisis. Providing $1.5 billion in supplemental funding would ensure that each region of the country can get the funds needed to pull themselves out of the current crisis.

But I continue to be open to any approach that ensures the highest quality health care for our Nation's veterans. Along those lines, I appreciate the work that Senators CRAIG and HUTCHISON and our other colleagues are doing to tackle this problem. I believe we can find a solution, together.

I yield the floor.

Mr. President, I yield the floor and 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. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

SEXUAL PREDATORS

Mr. DORGAN. Mr. President, this is a poster that shows what I discovered on the Internet in North Dakota. I discovered this in the month of April. I was going to have a meeting in Fargo and, just out of curiosity, I called up the North Dakota registry of sex offenders, to find out who was living within 2 miles of where I was having the meeting, at city hall in Fargo, ND. In the briefing book I had, I described this fellow to the people who came. His name is Joseph Duncan. The entire country knows of Joseph Duncan now. When I described Mr. Duncan, many people in the area didn't know him.

This sheet from the North Dakota Attorney General's Office, Bureau of Criminal Investigation, shows that Joseph Duncan was living in Fargo, ND. He was a sexual predator, and he had served a 20-year prison sentence for a first-degree rape. In 1980, he raped a 14-year-old boy at gunpoint, burned the victim, and made the victim believe he was going to be killed by firing the gun twice on empty chambers. And he went to prison.

In 2000, he was released from prison. He completed his full sentence, and was released without probation or parole. He went to live in North Dakota.

Again, I mentioned him in April of this year at a meeting simply because his name came up on an inquiry I did about who was living in Fargo, ND.

What I didn't know in April, when I mentioned Mr. Duncan, was that 1 month earlier he had been charged with molesting a 6-year-old boy at a playground in Detroit Lakes, MN. He appeared in court April 5 on those charges, a county judge set the bail at $15,000, and Joseph Duncan was released, promising to stay in touch. Of course, he didn't. He promptly disappeared.

As we know from substantial media coverage in recent weeks, Joseph Duncan was subsequently arrested in Idaho for kidnapping 8-year-old Shasta Groene. Her brother, 9-year-old Dylan, was missing. Their family was murdered upon the abduction of these two young children. The remains of Dylan have now been located. Duncan has been charged with abducting and molesting both children and is also under investigation for the murder of Dylan and the parents.

It is so frustrating to be here talking about this. It is a breakdown in common sense. Martha Stewart was let out of a minimum security prison and was required to wear an electronic bracelet and, apparently, she still wears one at her home under the disposition of the court. But we have known violent sexual predators walking around this country with no such level of supervision.

I have been on the Senate floor many times talking about a bill I introduced called Dru's law. I have shown colleagues a picture of a young woman named Dru Sjodin, who was brutally murdered and whose alleged assailant is a man named Mr. Rodriguez.

Mr. Rodriguez was in prison for 23 years. He is a violent sexual predator. He was let out, even when he was judged to be a high risk for reoffending. We know that 70 percent of the time high-risk sexual predators are going to reoffend. In most cases, their next offense will be more violent. Mr. Rodriguez allegedly murdered Dru Sjodin. The evidence is very substantial. He was walking around with not much more than a ''see you later'' at the prison door, much like Joseph Duncan. Mr. Duncan had been convicted previously of violent sexual offenses, and then he was accused in April of molesting a 6-year-old boy. What happens to him? He goes through a revolving door in the criminal justice system to be let out at $15,000 bail. Martha Stewart is wearing that bracelet and this fellow is turned back out on $15,000. Then this young girl named Shasta Groene is kidnapped with her brother Dylan and they were sexually molested. People are dead.

Dru's law, which I introduced well over a year ago, has been passed by the Senate once and didn't get through the House. Senator SPECTER and I and others have introduced it again, and my hope is very much that in the month of July we can get it through this Chamber and through the House and get it to the President for signature. It has three simple provisions: One, there should be a national registry of sex offenders, a national registry of sexual predators. This isn't rocket science. Somebody like this who rapes a 16-year-old boy at gunpoint needs to go on a sexual predator registry, and no matter where this person showed up in the criminal justice system, regardless of state lines, the public should be able to know that he is out there. We need a national registry of sexual predators.

Two, before a high-risk sexual predator is about to be released from prison, the local State's attorney must be notified in the event that they believe this person is so dangerous that they need to seek additional civil commitment. That must be the case.

And three, if, in fact, a high-risk sexual predator is released at the end of his term, there must be intensive monitoring by local governments. Once again, electronic monitoring bracelets are not just meant for Martha Stewart. They ought to be meant for very violent offenders like this who abduct and brutalize young children at gunpoint.

We can do much better. It is not only about Dylan and Shasta and Dru Sjodin; month after month, we read these stories.

Jessica Lunsford, 9 years old, Mark Lunsford's daughter, was abducted in February from her bedroom in her Florida home, and they found her body a month later. The crime was committed by a 46-year-old convicted sex offender with a 30-year history.

We know who these people are. They have been in the system before.

Sarah Michelle Lunde disappeared April 9 in Ruskin, south of Tampa, FL. David Onstott, a convicted sex offender who once had a relationship with the girl's mother, has confessed to killing her.

Jetseta Gage, of Cedar Rapids, IA, was abducted, sexually assaulted, and murdered. Roger Paul Bentley has been arrested for that crime. He is a convicted sex offender on Iowa's sex offender registry.

This has to stop. We know who these people are. Statistics tell us that over 70 percent of the violent sexual predators, when let out of prison, are going to reoffend. I am talking about type 3 sex offenders, judged to be at highest risk, as Mr. Rodriguez was when he was let out of prison and then within 6 months allegedly murdered Dru Sjodin.

When psychologists and psychiatrists evaluate sexual predators to be the highest risk, we cannot any longer say goodbye, so long, good luck at the prison door. We cannot let that happen again. We have to begin protecting innocent people. There are too many children whose lives are being lost.

Again, this is not rocket science. We know what is happening here, and we know how to stop it. Mark Lunsford wrote to me after his daughter was murdered. He said:

> If my daughter's death is going to have any meaning, it will be through your efforts strengthening existing laws, by making our streets safe for all children. My heart continues to break as I mourn the loss of my beautiful little girl. I do not want other families to suffer as mine has, and I believe your efforts will go far toward that important goal.

My hope is that Senator SPECTER and many others who have cosponsored this bill that I have introduced will help to pass Dru's Law once again through the Senate, and then work hard to get it through the House and to the President's desk for signature. It is long past the time this country has a national registry of sexual predators, violent sexual predators who all too often are getting away with murder.

HONORING OUR ARMED FORCES

DEATH OF PRIVATE FIRST CLASS ERIC PAUL WOODS

Mr. HAGEL, Mr. President, I rise to express my sympathy over the loss of Eric Paul Woods of Omaha, NE, a Private First Class medic in the U.S. Army. Private First Class Woods was killed by an explosion after stopping to save a wounded soldier on July 9 near Tal Afar in Iraq. He was 26 years old.

Private First Class Woods grew up in Urbandale, IA, and graduated from Urbandale High School in 1997. He moved to Omaha 5 years ago, joined the U.S. Army in April 2004 and was deployed to Iraq on March 8, 2005. Private First Class Woods was a member of G Troop, 2nd Squadron of the 3rd Army Cavalry, headquartered at Fort Carson, CO. Private First Class Woods will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like Private First Class Woods are currently serving in Iraq.

Private First Class Woods is survived by his wife, Jamie, and their 3-year-old son, Eric Scott, of Omaha, and his parents Charles and Jan Woods of Urbandale, IA. Our thoughts and prayers are with them at this difficult time. America is proud of Private First Class Woods' heroic service and mourns his loss.

I ask my colleagues to join me and all Americans in honoring PFC Eric Paul Woods.

REMARKS OF DR. WANGARI MAATHAI

Mr. LUGAR. Mr. President, I recently had the honor of meeting with Nobel Peace Prize Winner, Dr. Wangari Maathai of Kenya.

Dr. Maathai began a program of planting trees in 1976. She developed it into a grassroots organization that emphasized tree planting by women and children in order to conserve the environment and improve their quality of life. This program, which became known as the Green Belt Movement, has assisted women in planting more than 20 million trees throughout the world.

Dr. Maathai is internationally recognized for a lifelong dedication to democracy, human rights and environmental conservation. She has addressed the U.N. on several occasions and spoke on behalf of women at special sessions of the General Assembly for the 5-year review of the earth summit.

Earlier this year, Dr. Maathai gave an address inaugurating the World Food Law Institute's ''Distinguished Lecture Series.'' I ask unanimous consent that a copy of her remarks be printed in the RECORD for the benefit of my colleagues.

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

INAUGURAL WORLD FOOD LAW DISTINGUISHED LECTURE, HOWARD UNIVERSITY WORLD FOOD LAW LUNCH, COSMOS CLUB, WASHINGTON, DC,

MAY 10, 2005.—Thank you very much. Professor Marsha Echols, Excellencies, ladies and gentlemen, it is a unique pleasure and privilege and indeed honor to be here and to be received so warmly by you here in Washington, DC.

I think that one of the most humbling experiences I have is that when you do these things you don't do them thinking that other people are noticing and you don't do them so that one day you may be a Nobel Peace Prize winner. So, it is always very humbling to know that there were people who were watching and there were people who were appreciative of what we were doing. But we all now acknowledge that what the Norwegian Nobel Committee did on the day they decided that they wanted to focus on the environment for the very first time was both historic and visionary. It was a way of urging us to make a mind-shift in the way we think about security, in the way we think about peace, and to understand that you cannot achieve peace without looking at the environment.

Those of us who have been working on peace, democratization, environment movements, in women's movements, we always felt that indeed these issues are related, but nobody could have said it so dramatically and with so much persuasion as the Norwegian Nobel Committee. As I was trying to explain from my own perspective how these issues are related, I was inspired by a metaphor that I have been using. The metaphor is an African, traditional stool with three legs. A traditional African stool is actually made from one log and then three legs are chiseled out and a seat is also chiseled out in the middle so that when you sit, you sit on this basin, which rests on three legs.

I compare the three legs to the three pillars that the Norwegian Nobel Committee identified. One leg is that of peace. The other is that of democratic space, where rights are respected—women's rights, human rights, environmental rights, children's rights, where there is space for everybody, where minorities and the marginalized can find space. The third leg is the environment, that needs to be managed sustainably, equitably, and in a transparent way, the resources of which also need to be shared equitably.

That word ''equitably'' is very important in the management of those resources. If you look at many of the conflicts we have in the world, they are often due to the fact that we do manage our resources but we do not share them equitably. Or we manage our resources so poorly that they become degraded, depleted and so we start fighting over the little that is left. That happens at the national level, at the regional level, or even at the global level. So these three pillars, the pillar of peace, the pillar of the environment, and the pillar of democratic space, are extremely important for any state that intends to be stable. For when a state rests on these three pillars then the basin of the seat becomes the space, the environment, the milieu in which we can do development. Here we can meet as donors, as states, as financiers. We feel secure, we feel safe, because we are resting safely on those three pillars.

In many regions, not least my own, many countries are resting on two legs, some are resting on one leg, and some have no legs at all. We know how desperate the situation can be when the basin is literally on the ground. No development can take place. That to me is the main message that this Prize has brought to the world. To urge us as human society to rethink how we develop and to understand that we cannot force development, we cannot keep that basin up, if those three legs are not stable, and that we have to invest in those three legs. We have to invest in the environment. We have to invest in cultures of peace, continuously and deliberately. We have to invest in cultures of democratization, of democratic space. I prefer to call it democratic space because if I say democracy some people might feel like that's not exactly what they want to describe. But democratic space gives us a space to be ourselves, a space to be creative, a space to be self-respecting, a space to feel good about ourselves, a space to dream, and a space to aspire. We can do all that if the three pillars are safe.

That is true whether it's a small country like Kenya or a big country like the United States of America. This is the message that we have been challenged to embrace, to think about. And for development agencies this is a real challenge, because many development agencies think that what government needs is money, that if you can give them as much money as possible they will develop. Well, for the last forty years or so in Africa we have seen that pouring money there doesn't help. We need to strengthen those three pillars. Where you see a stable state and a state where people are appreciated, governments are investing in people rather than in weapons, they are investing in education, quality education, giving people the skills and the technology they need in order to exploit the resources that are within their borders, that's a state that feels stable, that doesn't feel threatened. Then it is able and willing to invest in its people.

Otherwise, you have just a small group of people trying to balance themselves in that basin, and because the legs are either not there or they are wobbly, no development can take place.

Today I was going to talk about food, essentially, and development and peace. I thought that if I started with that vision of the African traditional stool you would understand that you cannot have security in food if you do not have that pillar of the environment. I want to give you an example from Kenya. I want to show you how you can be very food insecure because you are interfering with a mountain.

Those of you who know Kenya know that we have five mountains, but I'll talk about the two mountains on the equator: Mount Kenya and the Aberdares. These two mountains, their tributaries create the largest river in Kenya. Along this river are millions of people and national parks, all the way to the very precious marine national park at the coast. The millions of people who live along the valley of this river enjoy farming and pastoralism, and of course in the national parks we have wildlife.

The people who live upstream are largely farmers, and they grow coffee and tea. Coffee and tea are some of the most basic and most important economic industries in the country. Tea, coffee and tourism are the main powerhouses of the economy in the country. Now, those three—tea, coffee, and tourism—depend on rainfall and water coming from those mountains. If you do not have enough water coming down the streams, you will not be able to supply agriculture, especially the irrigation schemes, along that river. And there are literally thousands of people who depend on that.

One thing that we have been doing with our mountains for many years, going on for about sixty years, is we decided to go to the high mountains and clear cut these natural forests and replace them with commercial plantations of trees we brought from Australia and the Northern Hemisphere. From Australia we brought the eucalyptus—I'm saying ''we'' but it's really the British—and from the North, we brought the pine. These are trees that are used to temperate zones, both in the South and the Northern Hemisphere. They did very well because Kenya has highlands; Mount Kenya alone is 17,000 feet above sea level. So these trees do very well. Also they were growing on what was then virgin soil.

We literally sacrificed the natural forests in order to expand these plantations. And sixty years down the road we are beginning to see the negative impact of those plantations. For one, we have lost a lot of biodiversity, because these trees do not tolerate local biodiversity. They kill everything except themselves. The other thing that has happened is that once you remove the natural forest, you are left with a forest that does not give you the same services as the natural forest. For example, the tree plantations do not retain rain water and encourage the water to go into the underground reservoirs. Most of the water runs off downstream and causes massive soil erosion and flooding and eventually ends up in the lakes and seas.

With it, the water carries the topsoil that the farmer needs to produce food. When you interfere too much with the natural system, you will also interfere with the rainfall patterns, because the nature of the forest controls the climate and controls the rainfall patterns. So when you change the ecology of the forest you also interfere with the rain pattern. We're now experiencing either no rain or, when the rains come, they come like a bucket from heaven has been opened and it pours and causes massive soil erosion. The cash crops, especially tea, do not like heavy rain. Tea prefers soft, drizzling rain. So with the change in the way the rain falls, you lose the crop yield.

How can you then have food security in a country like that, where the farmers depend on rainfall or on water from irrigation? It is impossible, and indeed at the beginning of last month the Minister for Agriculture said

that about three million people in Kenya would need food aid because the rainfall had declined so badly that farmers would not have adequate yield.

Of course, the immediate response to the crisis is the rainfall has not come. ''The rains did not come.'' But very few of us ask, ''Why didn't the rains come?'' That's the challenge. We need to ask ourselves, and that's why we're being challenged to think holistically. For if we only want the rains to come but don't want to understand why rains may not come, then of course we're going to fail. I could have told the Minister that because of the damage that we have done to the mountains, to the five forested mountains in Kenya, because of the illegal logging that has been going on for years, charcoal burning that has been going on for years, because of the commercial plantations that have been expanded in the mountains and allowing literally thousands of people to go into the forests and cultivate in order to support this commercial plantation of timber, rainfall patterns sooner or later would be affected.

Now some people say it is climate change and they say, ''Well, you know, even on Mount Kenya the glaciers are receding.'' That's also quite possible. It's possible that it is part of climate change. But climate change does not happen at a global level at once. Climate change starts at a local level. It is impacted by what we have done on these two mountains. Multiply that several million times, because it is happening in Kenya, it is happening in Africa, it is happening in Europe, it's happening elsewhere. And sooner or later, all these multiplied several million times create a climate that in certain areas will become extremely harsh, especially for people who don't have alternatives, such as the people in our region.

In trying to solve the problem, the Minister will probably say, ''We must go out and do two things: One, we must buy food from those who have it, or we must seek food aid in the world.'' I'm glad that United Nations Food and Agriculture Organization (FAO) is represented here, because they are the ones who are usually giving us food aid. That's a short-term solution.

The long-term solution is for us to go back to the basics. Go back to the basics and listen to what the Norwegian Nobel Committee said: The environment is in an intricate way joined, is related, is intertwined, in our lives on an everyday basis. It is not something we think about or talk about or learn about sometimes. The air we breathe, the water we drink, the food we eat: Everything we do has to do with the environment. We need to take this concept and make it holistic, so that we can think in a holistic manner, and learn to protect the base on which everything else depends. Learn that if we destroy the mountain, the waters, when they take the soil, they take away the soil in which the farmer plants his seed.

If you ask an ordinary Kenyan woman why the rains do not come, the farmer will probably say, ''God has not yet brought the rain, and we must pray so that God brings us the rain.'' In recent years I have seen the need to talk to the religion leaders and tell them that it is very important for them to see the connection between the book of Genesis and what is happening to the environment, and to begin to tell the faithful that they must take care of the Garden of Eden that God created in the book of Genesis, and to encourage them not to wait for God to bring rain, because the rains will come anyway.

But if the rains don't come, it has nothing to do with God. It has everything to do with the way they are managing their environment. So that that faithful [person], whether he can read the Bible or not, or maybe at best can only read the Bible in his own language, is motivated to go out, dig a hole, and plant a tree. Or, is motivated to go and create a terrace, or a trench, so that the next time the rains come, they do not take away his topsoil, so that when he plants a seed it will germinate because there is water in the ground and the fertile topsoil has not been carried away. And he will be motivated to support those terraces with trees, with vegetation. As we [the Green Belt Movement] are doing now, [perhaps] he is willing to even go further and plant trees on public land, including going to the forest and planting trees in the forest.

If the farmer does that, then those of us who are in a more responsible position can make sure that what he plants, if he's going to export, he will get fair trade. He'll get a fair price. Most of these farmers that I'm talking about grow tea and coffee. But when they grow this tea and coffee and they send it to the international market, there are some rules of the game—I don't know whether the food law [program] looks at that—there are some rules of the game that do not allow this farmer to get enough for his labor. He gets very little from the international market, and he has no control over that. When he needs inputs for his coffee and tea he has to buy [them] at a price that has been set by somebody else, and he has no control over that. Somehow there is a law that does not create justice for this farmer, and as a result, because he doesn't get enough for his labor, he continues to scrape, to scratch this land and get very little out of it. So we call him poor, and we begin to say that it is partly because of his poverty that the environment is being degraded.

Well, it is not true. The farmer is doing his best. He needs to be assisted to learn that he has to protect his environment. But those of us at this level also need to protect his interests. So when he brings his produce to the market he gets a fair price. That is why we are saying that perhaps what many of these poor countries need so that they may protect the environment is fair trade, support for aid so that they can support that farmer, and they can protect that forest, and they can encourage the rehabilitation of these forests and these mountains so that the rivers can continue to flow and the rains will come back.

The only way we can do that is if we have governments that operate in a free, democratic space, so that they can encourage their people, and governments that are promoting cultures of peace, so that people can find a peaceful environment in which to do these activities.

That is the message that I'm trying to share with you. I believe that's the message the Norwegian Nobel Committee was delivering to the world. It is the challenge that we have been given, so that we can rethink what security and peace really mean for us, and to understand that at no time, either at the national level or at the regional level, can we have peace if we do not think holistically—think from the top to the bottom and as wide as we can.

If we do so, then we are prepared to capture tat image of the traditional African stool with its three legs: Democracy, peace, and sustainable management of our resources. Then we can have a peaceful, secure base upon which development can take place.

Thank you very much.

ADDITIONAL STATEMENTS

100TH ANNIVERSARY OF HANSBORO, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. On July 7, 2005, the residents of Hansboro celebrated their community's history and founding.

Hansboro is a community located in north central North Dakota only 4 miles from the U.S./Canadian border. With a current population of 12, Hansboro is a very small town. However, more than 500 people congregated there for its centennial celebration this summer. It is clear that Hansboro possesses the characteristics that make smalltown America so special and unique.

Founded in 1905 by railroad workers and farmers who were working to establish a rail line to connect the area to the larger community of Devils Lake, ND, it was not long before several grain elevators were built. Shortly after its founding, on November 11, 1905, a post office was established in Hansboro at which Alexander Messer served as postmaster. The name of the community was meant to honor Henry Clay Hansbrough. Hansbrough served as North Dakota's first representative in the U.S. Congress after the State's creation in 1889. He later went on to serve three terms in the U.S. Senate from 1891 to 1909.

Today, Hansboro's small population consists mainly of individuals devoted to farming and ranching. However, the town also possesses the unique characteristic and great responsibility of serving as a port of entry into Canada.

I ask the U.S. Senate to join me in congratulating Hansboro, ND, and its residents on their first 100 years. By honoring Hansboro and all of the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Hansboro that have helped to shape this country into what it is today, which is why Hansboro is worthy of our recognition.

Hansboro possesses a proud past and a bright future.•

125TH ANNIVERSARY OF KINDRED, NORTH DAKOTA

• Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 125th anniversary. On August 5–7, the residents of Kindred, ND, will celebrate their community's founding and history.

Kindred is a small town of 614 citizens in southeastern North Dakota. Despite its size, Kindred holds an important place in North Dakota's history. Kindred can trace its history to 1879 when a U.S. Post Office named Sibley was moved two miles north of its original location to the present day site of Kindred. Following this, in 1880 the Great Northern Railroad established a

town-site and railroad station, naming the town Kindred after William S. Kindred, a Fargo real-estate pioneer. Kindred was incorporated in 1920 and became a city in 1949. Today, Kindred is a rapidly growing community bolstered by a variety of thriving businesses including, Cass County Electric Cooperative, Dakota Ag Cooperative, and Odegaard Aviation.

I ask the U.S. Senate to join me in congratulating Kindred, ND, and its residents on their first 125 years and in wishing them well through the next century. By honoring Kindred and all the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Kindred that have helped to shape this country into what it is today, which is why the fine community of Kindred is deserving of our recognition.

Kindred has a proud past and a bright future.●

125TH ANNIVERSARY OF DAWSON, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 125th anniversary. On July 2, the residents of Dawson, ND, gathered to celebrate their community's history and founding.

Dawson is a small town in south central North Dakota with a population of approximately 75. Despite its small size, Dawson holds an important place in North Dakota's history. The Sibley Expedition helped begin the settlement of this area, but it was the railroad's expansion that was responsible for Dawson's birth. J. Dawson Thompson, along with Fredrick D. Hager and Robert E. Wallace established the city of Dawson in 1880. This town started with a windmill and a water tower and later developed into an important city. As a railroad center, it was responsible for welcoming early settlers.

As the first established city of Kidder County, Dawson has experienced many changes over the years. Today, Mayor Rand Loveness leads this great city. Known for its excellent hunting and fishing, Dawson attracts a wide variety of sportsmen. Although small in size, Dawson has found ways to touch the lives of many people. Dawson has served thousands of children and adults through Camp Grassick. This camp specializes in giving people with disabilities and special needs a wonderful summer camp experience. The Veterans Memorial Wall in Dawson is another example of how this town has given back to its community. This wall honors 1,010 veterans serving from the Crimean War to the gulf war.

I ask the U.S. Senate to join me in congratulating Dawson, ND, and its residents on their first 125 years and in wishing them well through the next century. By honoring Dawson and all the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as Dawson that have helped to shape this country into what it is today, which is why this fine community is deserving of our recognition.

Dawson has a proud past and a bright future.●

100TH ANNIVERSARY OF LANKIN, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. On July 8–10, the residents of Lankin, ND, celebrated their community's history and founding.

Lankin is a small town in the northeast part of North Dakota. Despite its small size, Lankin holds an important place in North Dakota's history. The site was originally named ''Young'' for G.W. Young, a Park River lawyer and former teacher. He established the post office on April 7, 1898, and John Matajeck became the first postmaster. The name was changed to Lankin on July 27, 1905, when John Lankin became postmaster and the townsite was established on the Soo Line Railroad. Lankin was officially incorporated as a village in 1908. Among the town's residents were Jack McDonald, a trumpet player with Philip Sousa's famous band and Herman Witasek, a member of Lankin's 1930 State Class C High School basketball champions, who is considered to be North Dakota's first professional player of the sport.

Today Lankin is a delightful community in which to live and work. Lankin is home to a number of businesses, including a grain elevator, post office, bank, restaurant and an American Legion Club. There is also an active volunteer fire department and EMS squad. The community hosted a variety of festivities during its centennial celebration. On Friday, it held an all-school reunion, banquet and dance. Saturday kicked off with a parade and that will be followed by a day of entertainment featuring games, music, a three-on-three basketball tournament and a fireworks display that evening. The weekend will close with a church service and picnic on Sunday.

I ask the U.S. Senate to join me in congratulating Lankin, ND, and its residents on their first 100 years and in wishing them well through the next century. By honoring Lankin and all the other historic small towns of North Dakota, we keep the pioneering tradition spirit alive for future generations. It is places such as Lankin that have helped to shape this country into what it is today, which is why Lankin is deserving of our recognition.

Lankin has a proud past and a bright future.●

100TH ANNIVERSARY OF McCLUSKY, NORTH DAKOTA

● Mr. CONRAD. Mr. President, I rise today to honor a community in North Dakota that is celebrating its 100th anniversary. On July 8–10, 2005, the residents of McClusky, ND, celebrated their community's history and founding.

The community of McClusky is located at the geographic center of North Dakota, approximately 65 miles northeast of the State capital, Bismarck, and 50 miles east of beautiful Lake Sakakawea, a manmade lake formed by the Garrison Dam on the Missouri River. Within 45 miles of 18 lakes, McClusky is home to some of the world's premier hunting and fishing.

Founded in 1905 as the result of railroad expansion into the area, McClusky became a bustling farming community. Farming was, and continues to be, the mainstay of McClusky. In fact, the community received its name from William Henderson McClusky, a local farmer responsible for the town's establishment. In addition to farming, however, at this time McClusky's 500 residents are also vital to the continued existence of numerous organizations and businesses, including 6 churches and a bed and breakfast.

I ask the U.S. Senate to join me in congratulating McClusky, ND, and its residents on their first 100 years. By honoring McClusky and all of the other historic small towns of North Dakota, we keep the pioneering frontier spirit alive for future generations. It is places such as McClusky that have helped to shape this country into what it is today, which is why this fine community is worthy of our recognition.

McClusky possesses a proud past and a bright future.●

RETIREMENT OF LIEUTENANT COLONEL VERNON SIMMONS

● Mr. DOMENICI. Mr. President, I would like to extend my best wishes to LTC Vernon Simmons who recently retired as deputy to the Director of Budget and Appropriations Liaison in the Office of the Assistant Secretary of the Air Force for Financial Management and Comptroller. Vern's career as an Air Force officer defines service to one's country, and I know that Vern's dedication and leadership will be sorely missed by me and my staff, as well as his colleagues at the Air Force and the Department of Defense.

Lieutenant Colonel Simmons' career exemplifies hard work and commitment to excellence. In 1983, he graduated with honors from Northeastern University in Boston with a bachelor of science degree in business administration. It was there that he also completed his 4-year ROTC program, prior to entering active duty. He also earned a master of arts degree in economics from the University of Oklahoma in 1994.

Vern's first assignment was in Air Force Systems Command at Wright-Patterson Air Force Base, OH. He was assigned to the program control office as a program control integrator on the F–15E aircraft. It was there that he

also met his wonderful wife the former Celeste Aida Adams of Dayton, OH.

Next up for Vern was an assignment at Misawa Air Base Japan where he worked in the 432nd Tactical Fighter Wing. Vern's leadership abilities shined through as he performed a wide variety of cost and management analyses while also serving as the wing's budget officer. For his efforts he was named Best Base Level Cost Officer of 1986 and in 1988 was the Pacific Air Force's nominee to Ten Outstanding Young Men of America.

Upon completing 4 years in Japan, Vern once again answered the call to duty and moved to Hickam Air Force Base, HI, in June of 1990. There he joined the Pacific Air Force Headquarters staff as lead analyst for the command's flying hours, ranges and training programs. He also served there as Chief of the mission support section, overseeing civilian pay, civil engineering, and communications and base support programs.

Following subsequent assignments at the Pentagon, Seymour Johnson AFB and Headquarters AFMC, Lieutenant Colonel Simmons returned to Washington, DC, where he assumed the duties in the Budget and Appropriations Liaison Division for congressional matters. It was during this assignment that my staff and I came to know and rely on Vern. As a Senator from a State with three diverse Air Force bases, it is critical that I have the most current and reliable information about policies affecting the airmen and women from my State. Vern always came through for me and my staff. Whether sacrificing his own time to travel with us to Cannon, Holloman or Kirtland Air Force Base, or providing us with important answers to questions concerning the Air Force budget, Vern was always extremely professional, courteous and responsive. Indeed, LTC Vern Simmons has been a friend to my office, and I consider him a credit to the uniform of the U.S. Air Force.

Now, as Vern moves on to a new career, I wish the best for him, Celeste and their two children, Alessandra and Chad. It is with great pleasure that I recognize him and his accomplishments. LTC Vernon Simmons, I thank you for a job well done.

RETIREMENT OF LIEUTENANT COLONEL LON PRIBBLE

● Mr. LIEBERMAN. Mr. President, I wish to recognize and pay tribute to LTC Lon Pribble, Deputy Chief of the Army Senate Liaison Division, Office of the Chief of Legislative Liaison who will retire on 30 August 2005. Lieutenant Colonel Pribble's career spans over 22 years during which he has distinguished himself as a soldier, leader and friend of the U.S. Senate.

A native of Kansas, Lieutenant Colonel Pribble graduated from the U.S. Military Academy in 1983 and was commissioned as a lieutenant in the Armor Branch of the U.S. Army. During his career he commanded at the platoon and company levels where he ably trained and led America's soldiers at home and overseas. In Kirchgoens, Germany he commanded D Company and Headquarters and Headquarters Company 2nd Battalion 32nd Armor Regiment. He served in Southwest Asia as an Intelligence and Operations Officer with the 503rd Forward Support Battalion during Desert Shield/Desert Storm. Lieutenant Colonel Pribble also served in staff and instructor positions in the United States at the National Training Center at Fort Irwin, CA, and the Army Staff Management College at Fort Belvoir, VA. Prior to assuming his current duties he served as a U.S. Army Military fellow for the U.S. Senate and a congressional liaison for the House of Representatives. Since January 2003 Lon Pribble has served with distinction as the Deputy Chief, Army Senate Liaison Division where he has superbly represented the Chief of Legislative Liaison, the Chief of Staff of the Army and the Secretary of the Army, as well as promoting the interests of soldiers, their families and civilians of the Army. His professionalism, mature judgment, sage advice and interpersonal skills have earned him the respect and confidence of Members of Congress and congressional staffers with whom he has worked on a multitude of issues. In over 5 years on Capitol Hill, Lon Pribble has been a true friend of the U.S. Senate and the Congress. Serving as one the Army's primary points of contact for Senators and their staff he has assisted the Congress in understanding Army policies, actions and requirements. As a result he and the Army Senate Liaison staff have been extremely successful in providing prompt, coordinated and factual replies to all inquiries and matters involving Army issues. In addition he has provided invaluable assistance to Members and their staff while planning, coordinating and accompanying Senate delegations on official travel to numerous countries worldwide. His substantive knowledge of the key issues, keen legislative insight and ability to effectively advise senior members of the Army leadership directly contributed to the successful representation of the Army's interests before Congress.

Throughout his career, LTC Lon Pribble has demonstrated his profound commitment to our Nation, his selfless service to the Army, a deep concern for soldiers and their families and dedication to excellence. Lieutenant Colonel Pribble is a consummate professional whose performance in over 22 years of service has personified those traits of courage, competency and integrity that our Nation has come to expect from its professional Army officers.

I ask my colleagues to join me in thanking Lieutenant Colonel Pribble for his honorable service to the people and the Army of the United States. We wish him and his family Godspeed and all the best in the future.●

BRIDGEWATER, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I offer my congratulations to the town of Bridgewater, located in McCook County, SD. The town will celebrate the 125th anniversary of its founding this year.

The town was originally named Nation City for its founders, Robert and John B. Nation. However, it was renamed Bridgewater and moved to the northern side of the railroad tracks in 1880.

Once again, I congratulate Bridgewater on their anniversary and wish them the best of luck in the years to come.●

STICKNEY, SOUTH DAKOTA

● Mr. THUNE. Mr. President, today I recognize Stickney, SD. The town of Stickney will celebrate the 100th anniversary of its founding this year.

Located in Aurora County, the land for Stickney was turned over to John O. Wallace and officially became a town on August 17, 1905. The town is named for the oldest railroad agent in the United States, John B. Stickney.

I offer my congratulations to Stickney on their anniversary and I wish them continued prosperity in the years to come.●

MESSAGES FROM THE HOUSE

At 1:02 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3071. An act to permit the individuals currently serving as Executive Director, Deputy Executive Directors, and General Counsel of the Office of Compliance to serve one additional term.

At 2:47 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3058. An act making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3058. An act making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes; to the Committee on Appropriations.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 748. An act to amend title 18, United States Code, to prevent the transportation of minors in circumvention of certain laws relating to abortion, and for other purposes.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 1374. A bill to amend the Homeland Security Act of 2002 to provide for a border preparedness pilot program on Indian land.

S. 1375. A bill to amend the Indian Arts and Crafts Act of 1990 to modify provisions relating to criminal proceedings and civil actions, 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–2853. A communication from the Assistant Secretary of Legislative Affairs, Department of Homeland Security, transmitting, pursuant to law, a report entitled ''Fiscal Year 2006 Funding for Department of Homeland Security Counternarcotics Activities''; to the Committee on Homeland Security and Governmental Affairs.

EC–2854. A communication from the Secretary of the Treasury, transmitting, pursuant to law, two semiannual reports which were prepared separately by both the Treasury Department's Office of Inspector General and Inspector General for Tax Administration for the period ended March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2855. A communication from the Chairman, Broadcasting Board of Governors, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period of October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2856. A communication from the Federal Co-Chair, Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Office of Inspector General for the period September 30, 2004, through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2857. A communication from the Acting Director, Office of Personnel Management, transmitting, pursuant to law, a report entitled ''Physicians' Comparability Allowance Program Fiscal Year 2005''; to the Committee on Homeland Security and Governmental Affairs.

EC–2858. A communication from the Chairman and Chief Executive Officer, Farm Credit Administration, transmitting, pursuant to law, the Inspector General's Semiannual Report and the Semiannual Management Report on the Status of Audits for the period of October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2859. A communication from the Secretary of the Department of Housing and Urban Development, transmitting, pursuant to law, the Department's Inspector General Report for the period October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2860. A communication from the Secretary of the Department of Housing and Urban Development, transmitting, pursuant to law, the Department's Fiscal Year 2006 Annual Performance Plan; to the Committee on Homeland Security and Governmental Affairs.

EC–2861. A communication from the Deputy Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Commission's Annual Report on the Federal Work Force for Fiscal Year 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–2862. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Fiscal Year 2004 Prescription Drug User Fee Act Financial Report; to the Committee on Health, Education, Labor, and Pensions.

EC–2863. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Dental Devices; Reclassification of Tricalcium Phosphate Granules and Classification of Other Bone Grafting Material for Dental Bone Repair'' (Docket No. 2002P–0520) received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2864. A communication from the Regulations Coordinator, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Federal Policy for the Protection of Human Subjects'' received on June 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2865. A communication from the Director, Division of Policy, Planning and Program Development, Office of Federal Contract Compliance Programs, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Compliance Evaluations in ALL OFCCP Programs'' (RIN 1215–AB28, 1215–AB27, 1215–AB23) received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2866. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, reports relative to a vacancy in the position of Assistant Secretary for Public Health and Science, received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2867. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, reports relative to a vacancy in the position of Assistant Secretary for Planning and Evaluation, received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2868. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Secretary of Health and Human Services, received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2869. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Commissioner, Food and Drug Administration, received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2870. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Administrator, Centers for Medicare and Medicaid Services, received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2871. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Deputy Secretary of Health and Human Services, received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2872. A communication from the Political Personnel and Advisory Communication Management Specialist, Department of Health and Human Services, transmitting, pursuant to law, a report relative to a vacancy in the position of Director, Indian Health Service, received on June 23, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–2873. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a report relative to a study to determine the feasibility of constructing a project for flood damage reduction in Southwest Valley, Bernalillo County, New Mexico; to the Committee on Environment and Public Works.

EC–2874. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; State Implementation Plan Correction'' (FRL No. 7931–7) received on June 28, 2005; to the Committee on Environment and Public Works.

EC–2875. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Minnesota'' (FRL No. 7931–2) received on June 28, 2005; to the Committee on Environment and Public Works.

EC–2876. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Spokane PM10 Nonattainment Area Limited Maintenance Plan and Redesignation Request'' (FRL No. 7927–2) received on June 28, 2005; to the Committee on Environment and Public Works.

EC–2877. 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 ''Correction to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL No. 7932–3) received on June 28, 2005; to the Committee on Environment and Public Works.

EC–2878. 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 ''Deletion of Methyl Ethyl Ketone; Toxic Chemical Release Reporting; Community Right-to-Know'' (FRL No. 7532–5) received on June 28, 2005; to the Committee on Environment and Public Works.

EC–2879. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing'' (FRL No. 7932–2) received on June 28, 2005; to the Committee on Environment and Public Works.

EC–2880. 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

''Ocean Dumping; De-designation of Ocean Dredged Material Disposal Sites and Designation of New Sites; Correction'' (FRL No. 7930–7) received on June 28, 2005; to the Committee on Environment and Public Works.

EC–2881. 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 ''Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations'' (FRL No. 7925–9) received on June 28, 2005; to the Committee on Environment and Public Works.

EC–2882. 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 ''Cyprodinil; Time-Limited Pesticide Tolerance'' (FRL No. 7718–3) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2883. 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 ''Extension of Tolerances for Emergency Exemptions (Multiple Chemicals)'' (FRL No. 7722–3) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2884. 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 ''Ethyl Maltol; Exemption from the Requirement of a Tolerance'' (FRL No. 7717–1) received on June 28, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–2885. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Election Out of GST Deemed Allocations'' ((RIN1545–BB54) (TD 9208)) received on June 28, 2005; to the Committee on Finance

EC–2886. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, the Administration's Minority Small Business and Capital Ownership Development Report for Fiscal Year 2004; to the Committee on Small Business and Entrepreneurship.

EC–2887. A communication from the Deputy General Counsel, Office of the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Interconnection for Wind Energy'' (Docket No. RM05–4–000) received on June 27, 2005; to the Committee on Energy and Natural Resources.

EC–2888. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the 2004 Annual Report of the National Credit Union Administration; to the Committee on Banking, Housing, and Urban Affairs.

EC–2889. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the periodic report on the national emergency with respect to the risk of nuclear proliferation created by the accumulation of weapons-usable fissile material in the territory of the Russian Federation that was declared in Executive Order 13159 of June 21, 2000; to the Committee on Banking, Housing, and Urban Affairs.

EC–2890. A communication from the Secretary of the Treasury, transmitting, pursuant to law, the periodic report on the national emergency with respect to the Western Balkans that was declared in Executive Order 13219 of June 26, 2001; to the Committee on Banking, Housing, and Urban Affairs.

EC–2891. A communication from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting, pursuant to law, a report that funding for the State of Ohio as a result of the record snow on December 22–24, 2004, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–2892. A communication from the Chairman, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, a report relative to the profitability of the credit card operations of depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

EC–2893. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Fair Credit Reporting Medical Information Regulations (Part 41)'' (RIN1557–AC85) received on June 22, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2894. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Reporting, Procedures and Penalties Regulations; Sudanese Sanctions Regulations'' (31 CFR Part 501; 31 CFR Part 538) received on June 22, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2895. A communication from the Assistant General Counsel for Regulations, the Government National Mortgage Association, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Removal of Regulation Specifying Minimum Face Value of Ginnie Mae Securities'' ((RIN2503–AA17) (FR–4856–F–02)) received on June 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2896. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Deposit Insurance Coverage; Accounts of Qualified Tuition Savings Programs Under Section 529 of the Internal Revenue Code'' (RIN3064–AC90) received on June 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2897. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report of a rule entitled ''Fair Credit Reporting Medical Information Regulations'' received on June 23, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–2898. A communication from the Chief Counsel, Bureau of Public Debt, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''U.S. Treasury Securities—State and Local Government Series'' (31 CFR Part 344) received on June 27, 2005; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1317. A bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitably matched to donors of bone marrow and cord blood.

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. BROWNBACK:

S. 1373. A bill to amend title 18, United States Code, to prohibit human chimeras; to the Committee on the Judiciary.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1374. A bill to amend the Homeland Security Act of 2002 to provide for a border preparedness pilot program on Indian land; read the first time.

By Mr. MCCAIN (for himself, Mr. DORGAN, and Mr. KYL):

S. 1375. A bill to amend the Indian Arts and Crafts Act of 1990 to modify provisions relating to criminal proceedings and civil actions, and for other purposes; read the first time.

By Mr. COCHRAN (for himself, Mr. STEVENS, Mr. WARNER, Mr. DODD, Mr. AKAKA, and Mr. BURNS):

S. 1376. A bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLEN:

S. 1377. A bill for the relief of Hyang Dong Joo; to the Committee on the Judiciary.

By Mr. TALENT (for himself and Mr. WYDEN):

S. 1378. A bill to amend the National Historic Preservation Act to provide appropriation authorization and improve the operations of the Advisory Council on Historic Preservation; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN:

S. 1379. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

By Mr. VITTER (for himself and Mrs. BOXER):

S. 1380. A bill to eliminate unsafe railway-road grade crossings, to enhance railroad safety through new safety technology, safety inspections, accident investigations, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. LAUTENBERG (for himself, Mr. LUGAR, and Mr. DODD):

S. Res. 192. A resolution affirming that the First Amendment of the Constitution of the United States guarantees the freedom of the press and asserting that no purpose is served by sentencing journalists Judith Miller and Matthew Cooper, nor any similarly situated journalists, to prison for maintaining the anonymity of confidential sources; to the Committee on the Judiciary.

By Mr. FRIST (for himself, Mr. REID, Mr. LUGAR, Mr. BIDEN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND,

Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 193. A resolution expressing sympathy for the people of the United Kingdom in the aftermath of the deadly terrorist attacks on London on July 7, 2005; considered and agreed to.

By Mr. FRIST (for himself, Mr. REID, Mr. FEINGOLD, Mr. KOHL, Mr. JEFFORDS, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 194. A resolution relative to the death of Gaylord A. Nelson, former United States Senator for the State of Wisconsin; considered and agreed to.

By Mr. BURR (for himself and Mr. SALAZAR):

S. Res. 195. A resolution recognizing the spirit of Jacob Mock Doub and his contribution to encouraging youth to be physically active and fit, and expressing support for ''National Take a Kid Mountain Biking Day''; to the Committee on Health, Education, Labor, and Pensions.

ADDITIONAL COSPONSORS

S. 21

At the request of Ms. COLLINS, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Ohio (Mr. DEWINE), the Senator from Iowa (Mr. HARKIN) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 21, a bill to provide for homeland security grant coordination and simplification, and for other purposes.

S. 37

At the request of Mrs. HUTCHISON, the names of the Senator from Missouri (Mr. BOND), the Senator from Kansas (Mr. ROBERTS) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 103

At the request of Mr. TALENT, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 390

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 390, a bill to amend title XVIII of the Social Security Act to provide for coverage of ultrasound screening for abdominal aortic aneurysms under part B of the medicare program.

S. 511

At the request of Mr. DEMINT, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 511, a bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes.

S. 550

At the request of Mr. CORZINE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 550, a bill to amend the Public Health Service Act with respect to facilitating the development of microbicides for preventing transmission of HIV and other diseases, and for other purposes.

S. 598

At the request of Mr. INOUYE, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 598, a bill to reauthorize provisions in the Native American Housing Assistance and Self-Determination Act of 1996 relating to Native Hawaiian low-income housing and Federal loan guarantees for Native Hawaiian housing.

S. 614

At the request of Mr. SPECTER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 614, a bill to amend title 38, United States Code, to permit medicare-eligible veterans to receive an out-patient medication benefit, to provide that certain veterans who receive such benefit are not otherwise eligible for medical care and services from the Department of Veterans Affairs, and for other purposes.

S. 685

At the request of Mr. AKAKA, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 685, a bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require the Pension Benefit Guaranty Corporation, in the case of airline pilots who are required by regulation to retire at age 60, to compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60.

S. 695

At the request of Mr. BYRD, the names of the Senator from Maine (Ms. SNOWE) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 695, a bill to suspend temporarily new shipper bonding privileges.

S. 774

At the request of Mr. BUNNING, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 774, a bill to amend the Internal Revenue Code of 1986 to repeal the 1993 income tax increase on Social Security benefits.

S. 776

At the request of Mr. JOHNSON, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 828

At the request of Mr. HARKIN, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 828, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 853

At the request of Mr. HAGEL, his name was added as a cosponsor of S.

853, a bill to direct the Secretary of State to establish a program to bolster the mutual security and safety of the United States, Canada, and Mexico, and for other purposes.

S. 863

At the request of Mr. CONRAD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 863, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 938

At the request of Mr. LEAHY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 938, a bill to amend title 37, United States Code, to require that members of the National Guard and Reserve called or ordered to active duty for a period of more than 30 days to receive a basic allowance for housing at the same rate as similarly situated members of the regular components of the uniformed services.

S. 1002

At the request of Mr. BAUCUS, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

S. 1004

At the request of Mr. ALLEN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1004, a bill to provide the Federal Trade Commission with the resources necessary to protect users of the Internet from the unfair and deceptive acts and practices associated with spyware, and for other purposes.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1064

At the request of Mr. COCHRAN, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1066

At the request of Mr. VOINOVICH, the names of the Senator from Indiana (Mr. BAYH) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1066, a bill to authorize the States (and subdivisions thereof), the District of Columbia, territories, and possessions of the United States to provide certain tax incentives to any person for economic development purposes.

S. 1086

At the request of Mr. HATCH, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1158

At the request of Mr. KENNEDY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1158, a bill to impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings.

S. 1197

At the request of Mr. BIDEN, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Texas (Mrs. HUTCHISON), the Senator from Nebraska (Mr. NELSON), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1262

At the request of Mr. FRIST, the names of the Senator from Florida (Mr. NELSON) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1262, a bill to reduce healthcare costs, improve efficiency, and improve healthcare quality through the development of a nationwide interoperable health information technology system, and for other purposes.

S. 1264

At the request of Mr. CORZINE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1264, a bill to provide for the provision by hospitals of emergency contraceptives to women, and post-exposure prophylaxis for sexually transmitted disease to individuals, who are survivors of sexual assault.

S. 1265

At the request of Mr. VOINOVICH, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 1265, a bill to make grants and loans available to States and other organizations to strengthen the economy, public health, and environment of the United States by reducing emissions from diesel engines.

S. 1287

At the request of Mr. COLEMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1287, a bill to amend the definition of independent student for purposes of the need analysis in the Higher Education Act of 1965 to include older adopted students.

S. 1297

At the request of Mr. CORZINE, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1297, a bill to amend title XVIII of the Social Security Act to reduce the work hours and increase the supervision of resident physicians to ensure the safety of patients and resident-physicians themselves.

S. 1313

At the request of Mr. CORNYN, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from South Carolina (Mr. DEMINT), the Senator from Louisiana (Mr. VITTER) and the Senator from California (Mrs. BOXER) were added as cosponsors of S. 1313, a bill to protect homes, small businesses, and other private property rights, by limiting the power of eminent domain.

S. 1317

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1325

At the request of Mr. FRIST, the names of the Senator from Virginia (Mr. WARNER) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1325, a bill to establish grants to provide health services for improved nutrition, increased physical activity, obesity and eating disorder prevention, and for other purposes.

S. 1339

At the request of Mr. INHOFE, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 1339, a bill to reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994.

S. 1350

At the request of Mr. SPECTER, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 1350, a bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services.

S. 1353

At the request of Mr. REID, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1358

At the request of Mr. DURBIN, the name of the Senator from Nevada (Mr.

REID) was added as a cosponsor of S. 1358, a bill to protect scientific integrity in Federal research and policymaking.

S. 1360

At the request of Mr. SMITH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1360, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage to designated plan beneficiaries of employees, and for other purposes.

S. 1369

At the request of Mr. TALENT, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1369, a bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice.

S.J. RES. 12

At the request of Mr. HATCH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S.J. Res. 12, a joint resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

S.J. RES. 15

At the request of Mr. BROWNBACK, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 16

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Con. Res. 16, a concurrent resolution conveying the sympathy of Congress to the families of the young women murdered in the State of Chihuahua, Mexico, and encouraging increased United States involvement in bringing an end to these crimes.

S. RES. 83

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Res. 83, a resolution commemorating the 65th Anniversary of the Black Press of America.

S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1374. A bill to amend the Homeland Security Act of 2002 to provide for a border preparedness pilot program on Indian land; read the first time.

Mr. MCCAIN. Mr. President, I am pleased to introduce a bill that authorizes the Secretary or Homeland Security to establish a pilot program to enhance an Indian tribe's response to border activity. I am pleased to be joined by the vice chairman of the Indian Affairs Committee, Senator BYRON DORGAN, and my good friend and colleague from Arizona, Senator JON KYL, as original cosponsors of this bill.

This bill establishes a pilot program to enhance tribal first responder capabilities, provide assistance for surveillance technologies and communication capabilities and to facilitate coordination and cooperation with Federal, State, local and tribal governments along the international border. The criteria for participation in the pilot program is to be prescribed by the Secretary taking into consideration the tribes' proximity to the border and the extent to which border crossing activity impacts existing tribal resources.

This bill is substantially similar to Section 132 of S. 536, the Native American Omnibus Act of 2005, which was unanimously passed out of the Committee on Indian Affairs earlier this year. It has been modified to address several concerns including to clarify that it does not alter the original jurisdiction or traditional role of the Federal agencies responding to border crimes or any Indian tribe.

Several Indian tribes inhabit land on or easily accessible to the United States and Canada and Mexico. This bill recognizes that these tribes are exceptionally vulnerable to border crimes. And, although enforcement of our immigration laws and border security is a Federal responsibility, these tribes continue to bear extraordinary costs in responding to border crimes and almost always divert funds intended for local police and welfare services to do so. For example, a tribal police officer may see suspicious drug or immigrant smuggling activity occurring within the Indian tribes boundaries or come upon an accident scene or death involving illegal immigrants or drug smugglers. The tribal officer is required to notify Federal officials and render aid to the injured. The Federal official may be hours away and the tribal police are usually asked to detain the suspects or possibly transport them to medical aid. Meanwhile, the tribal police agency is unable to respond to community calls for service. Additionally, tribal police are intimately familiar with their territory and are able to provide Federal agencies with information that is useful in fulfilling their responsibilities.

I recognize that Federal and State agencies play the primary role in these efforts. However, in specific areas of this Nation, tribal government police, fire and emergency services often provide the first and often only response because of their access to the border. A tribe's proximity to the border and its responsibility for public safety and welfare of their members requires that they respond. Simply put, Indian tribes situated close to the international border are vulnerable and greatly impacted and we must acknowledge their daily role in responding to border crimes. This bill gives them added tools to do so.

I ask unanimous consent that my remarks and the full text of the bill be included in the RECORD.

S. 1374

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BORDER PREPAREDNESS ON INDIAN LAND.

Subtitle D of title IV of the Homeland Security Act of 2002 (6 U.S.C. 251 et seq.) is amended by adding at the end the following:

"SEC. 447. BORDER PREPAREDNESS PILOT PROGRAM ON INDIAN LAND.

''(a) DEFINITIONS.—In this section:

''(1) INDIAN LAND.—The term 'Indian land' means—

''(A) all land within the boundaries of any Indian reservation; and

''(B) any land the title to which is—

''(i) held in trust by the United States for the benefit of an Indian tribe or individual; or

''(ii) held by any Indian tribe or individual—

''(I) subject to a restriction by the United States against alienation; and

''(II) over which an Indian tribe exercises governmental authority.

''(2) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized by the Secretary as—

''(A) eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

''(B) possessing powers of self-government.

''(3) TRIBAL GOVERNMENT.—The term 'tribal government' means the governing body of an Indian tribe.

''(b) PURPOSE.—The purpose of this section is to require the Secretary, acting through the Office of Domestic Preparedness, to establish a pilot program for not fewer than 6 tribal governments on Indian land located on or near the border of the United States with Canada or Mexico in order to—

''(1) facilitate the coordination of the response of an Indian tribe to a threat to the security of an international border of the United States with the responses of Federal, State, and local governments;

''(2) enhance the capability of an Indian tribe as a first responder to an illegal crossing of an immigrant over an international border of the United States;

''(3) provide training and technical assistance to Indian tribes in the use by the tribes of effective surveillance technologies, integrated communication systems and equipment, and personnel training; and

''(4) provide technical advice and assistance to Indian tribes to plan and implement strategies to detect and prevent—

''(A) any illegal entry by a person into the land of the tribes; and

''(B) the transportation of any illegal substance within or near the boundaries of the land of the tribes.

''(c) PILOT PROGRAM.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, acting through the Office of Domestic Preparedness, shall establish a pilot program under which the Secretary provides direct grants to eligible tribal governments, as determined by the Secretary, to achieve the purposes of this section.

''(2) USE OF FUNDS AND ASSISTANCE.—

''(A) IN GENERAL.—A tribal government shall use any funds or assistance provided under paragraph (1) consistent with the purposes of this section.

''(B) ADMINISTRATION BY TRIBAL GOVERNMENTS.—A tribal government that receives any funds or assistance under paragraph (1) shall administer the funds or assistance in accordance with any requirement or regulation promulgated by the Secretary.

''(3) SELECTION CRITERIA.—In selecting a tribal government to receive funds or assistance under paragraph (1), the Secretary may take into consideration—

''(A) the distance between the Indian land in the jurisdiction of the tribal government and an international border of the United States;

''(B) the extent to which the resources of the Indian tribe are affected by—

''(i) a border enforcement effort; or

''(ii) the threat of illegal immigration; and

''(C) the interests of the Indian tribe.

''(d) REPORTS.—

''(1) TRIBAL GOVERNMENTS.—

''(A) IN GENERAL.—Not later than 1 year after receiving funds or assistance under subsection (c) and annually thereafter, a tribal government shall submit to the Secretary a report in such a manner and containing such information as the Secretary may require.

''(B) INCLUSION.—A report under subparagraph (A) shall include a description of—

''(i) any funds or assistance received by the tribal government under this section;

''(ii) the use of the funds or assistance by the tribal government;

''(iii) any obstacle encountered by the tribal government in administering the funds or assistance; and

''(iv) any accomplishment made or obstacle encountered by the tribal government in developing a cooperative effort with another Indian tribe, the Federal Government, or a State or local government, and the effect of the accomplishment or obstacle on the tribe.

''(2) SECRETARY.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report describing—

''(A) the information contained in the reports under paragraph (1);

''(B) the degree of success of—

''(i) the Secretary in implementing the pilot program; and

''(ii) each project under the pilot program under subsection (c) in achieving the goals of the pilot program; and

''(C) any recommendation, including a legislative recommendation, of the Secretary relating to the pilot program.

''(e) EFFECT OF SECTION.—Nothing in this section affects—

''(1) the authority of the Commissioner of the Bureau of Customs and Border Protection; or

''(2) any authority of an Indian tribe, tribal organization, or tribal government participating in a program under this section.

''(f) EFFECT OF FUND ALLOCATION.—Any funds allocated under this section shall be in addition to, and not in lieu of, any funds available to an Indian tribe, tribal organization, or tribal government under this Act.

''(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,500,000 for each of fiscal years 2006 through 2008.''.

S. RES. 194

Relative to the death of Gaylord A. Nelson, former United States Senator for the State of Wisconsin.

Whereas Gaylord A. Nelson served in the United States Army from 1942–1946;

Whereas Gaylord A. Nelson served as Governor of the State of Wisconsin from 1959–1963;

Whereas Gaylord A. Nelson served the people of Wisconsin with distinction for 18 years in the United States Senate;

Whereas Gaylord A. Nelson served the Senate as Chairman of the Select Committee on Small Business from the Ninety-Third through the Ninety-Sixth Congresses and as Chairman of the Special Committee on Official Conduct in the Ninety-Fifth Congress;

Whereas Gaylord A. Nelson received the Presidential Medal of Freedom in 1995;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Gaylord A. Nelson, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Gaylord A. Nelson.

By Mr. MCCAIN (for himself, Mr. DORGAN, and Mr. KYL):

S. 1375. A bill to amend the Indian Arts and Crafts Act of 1990 to modify provisions relating to criminal proceedings and civil actions, and for other purposes; read the first time.

Mr. MCCAIN. Mr. President, today I rise to introduce a much needed amendment to the Indian Arts and Crafts Act. I am pleased to be joined by the vice chairman of the Indian Affairs Committee, Senator BYRON DORGAN, and my good friend and colleague from Arizona, Senator JON KYL as original cosponsors of this bill.

This bill expands the existing Federal investigative authority by authorizing other Federal investigative bodies, such as the BIA Office of Law Enforcement, in addition to the FBI, to investigate cases of misrepresentation of Indian arts and crafts. This bill is substantially the same as Section 111 of the Native American Omnibus Act, S. 536, which passed out of the Committee on Indian Affairs earlier this year. This bill also addresses concerns that were raised by the administration.

A major source of tribal and individual Indian income is derived from the sale of handmade Indian arts and crafts. Yet, today, millions of dollars are diverted each year from these original artists and Indian tribes by those who reproduce and sell counterfeit Indian goods. However, it is my understanding that few, if any, criminal prosecutions have been brought in Federal court for such violations. It is understandable that enforcing the criminal law that prohibits the sale of Indian arts and crafts misrepresented as an Indian product is often stalled by the other responsibilities of the FBI including investigating terrorism activity and violent crimes in Indian country. Therefore, expanding the investigative authority to include other Federal agencies is intended to promote the active investigation of alleged misconduct. It is my hope that with this much needed change will deter those who dare to violate the act.

I ask unanimous consent that text of the bill be printed in the RECORD.

S. 1375

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 ''Indian Arts and Crafts Amendments Act of 2005''.

SEC. 2. INDIAN ARTS AND CRAFTS.

(a) CRIMINAL PROCEEDINGS; CIVIL ACTIONS; MISREPRESENTATIONS.—Section 5 of the Act entitled ''An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes'' (25 U.S.C. 305d) is amended to read as follows:

''SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.

''(a) DEFINITION OF FEDERAL LAW ENFORCEMENT OFFICER.—In this section, the term 'Federal law enforcement officer' includes—

''(1) a Federal law enforcement officer (as defined in section 115(c) of title 18, United States Code); and

''(2) with respect to a violation of this Act that occurs outside Indian country (as defined in section 1151 of title 18, United States Code), an officer that has authority under section 3 of the Indian Law Enforcement Reform Act (25 U.S.C. 2802), acting in coordination with a Federal law enforcement agency that has jurisdiction over the violation.

''(b) CRIMINAL PROCEEDINGS.—

''(1) REFERRAL.—On receiving a complaint of a violation of section 1159 of title 18, United States Code, the Board may refer the complaint to any Federal law enforcement officer for appropriate investigation.

''(2) FINDINGS.—The findings of an investigation under paragraph (1) shall be submitted to—

''(A) the Attorney General; and

''(B) the Board.

''(3) RECOMMENDATIONS.—On receiving the findings of an investigation in accordance with paragraph (2), the Board may—

''(A) recommend to the Attorney General that criminal proceedings be initiated under section 1159 of that title; and

''(B) provide such support to the Attorney General relating to the criminal proceedings as the Attorney General determines appropriate.

''(c) CIVIL ACTIONS.—In lieu of, or in addition to, any criminal proceeding under subsection (a), the Board may recommend that the Attorney General initiate a civil action pursuant to section 6.''.

(b) CAUSE OF ACTION FOR MISREPRESENTATION.—Section 6 of the Act entitled ''An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes'' (25 U.S.C. 305e) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by inserting before subsection (b) (as redesignated by paragraph (2)) the following:

''(a) DEFINITIONS.—In this section:

''(1) INDIAN.—The term 'Indian' means an individual that—

''(A) is a member of an Indian tribe; or

''(B) is certified as an Indian artisan by an Indian tribe.

''(2) INDIAN PRODUCT.—The term 'Indian product' has the meaning given the term in any regulation promulgated by the Secretary.

''(3) INDIAN TRIBE.—

''(A) IN GENERAL.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(B) INCLUSION.—The term 'Indian tribe' includes an Indian group that has been formally recognized as an Indian tribe by—

''(i) a State legislature;

''(ii) a State commission; or

''(iii) another similar organization vested with State legislative tribal recognition authority.

''(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.'';

(4) in subsection (b) (as redesignated by paragraph (2)), by striking ''subsection (c)'' and inserting ''subsection (d)'';

(5) in subsection (c) (as redesignated by paragraph (2))—

(A) by striking ''subsection (a)'' and inserting ''subsection (b)''; and

(B) by striking ''suit'' and inserting ''the civil action'';

(6) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

''(d) PERSONS THAT MAY INITIATE CIVIL ACTIONS.—

''(1) IN GENERAL.—A civil action under subsection (b) may be initiated by—

''(A) the Attorney General, at the request of the Secretary acting on behalf of—

''(i) an Indian tribe;

''(ii) an Indian; or

''(iii) an Indian arts and crafts organization;

''(B) an Indian tribe, acting on behalf of—

''(i) the tribe;

''(ii) a member of that tribe; or

''(iii) an Indian arts and crafts organization;

''(C) an Indian; or

''(D) an Indian arts and crafts organization.

''(2) DISPOSITION OF AMOUNTS RECOVERED.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an amount recovered in a civil action under this section shall be paid to the Indian tribe, the Indian, or the Indian arts and crafts organization on the behalf of which the civil action was initiated.

''(B) EXCEPTIONS.—

''(i) ATTORNEY GENERAL.—In the case of a civil action initiated under paragraph (1)(A), the Attorney General may deduct from the amount—

''(I) the amount of the cost of the civil action and reasonable attorney's fees awarded under subsection (c), to be deposited in the Treasury and credited to appropriations available to the Attorney General on the date on which the amount is recovered; and

''(II) the amount of the costs of investigation awarded under subsection (c), to reimburse the Board for the activities of the Board relating to the civil action.

''(ii) INDIAN TRIBE.—In the case of a civil action initiated under paragraph (1)(B), the Indian tribe may deduct from the amount—

''(I) the amount of the cost of the civil action; and

''(II) reasonable attorney's fees.''; and

(7) in subsection (e), by striking ''(e) In the event that'' and inserting the following:

''(e) SAVINGS PROVISION.—If''.

(c) CONFORMING AMENDMENT.—Section 1159(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) the term 'Indian tribe'—

''(A) has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b); and

''(B) includes an Indian group that has been formally recognized as an Indian tribe by—

''(i) a State legislature;

''(ii) a State commission; or

''(iii) another similar organization vested with State legislative tribal recognition authority; and''.

Mr. KYL. Mr. President, today I am pleased to join with Senator MCCAIN to introduce the Indian Arts and Crafts Amendments Act of 2005. This legislation strengthens the investigative and enforcement authorities of the underlying Indian Arts and Crafts Act of 1990.

Native arts and crafts are the only indigenous art of America. Unauthentic reproductions and mass produced knock offs undercut sales of genuine articles, discouraging young Native Americans from learning traditional artisans' techniques and their decisions to pursue jobs in other industries. The end result is that if less Native people are practicing their arts, those traditions risk extinction. It would be a tremendous loss to the entire country's cultural heritage to lose these traditions.

The Indian Arts and Crafts Act of 1990, which I coauthored with now retired Senator Ben Nighthorse Campbell when we were both Members of the House of Representatives, was enacted in response to growing sales of arts and crafts products misrepresented as being produced by Indians. It is a truth-in-advertising law, with civil and criminal provisions, that prohibits the marketing of products as ''Indian made'' when such products are not made by Indians as defined by the act. It is intended to protect Indian artists and craftspeople, businesses, tribes, consumers and our cultural heritage.

Since the passage of the 1990 Act, we have had an opportunity to assess its effectiveness and make changes as necessary through the legislative process. Last year, now retired Senator Campbell and I, on the recommendation of the Indian Arts and Crafts Board, agreed to consider amending the act to strengthen its investigative authority and enforcement provisions. The Board was becoming concerned that the Federal Bureau of Investigation, charged with investigating violations of the act, needed some help. Fewer complaints that had been referred for investigation were receiving the attention they deserved and meritorious cases were not making it to the Attorney General for prosecution. During the last Congress, we proposed amending the act to strengthen the investigative and enforcement authorities, but these amendments were not enacted prior to adjournment.

I am happy to say, the new Indian Affairs Committee chairman, Senator MCCAIN, recognized these concerns still existed, and we agreed to work together to address them. The Amendments we are introducing today build upon the work in the last Congress. When enacted, they will make the act even more effective. The amendments expand the investigative authority under the act to include all Federal law enforcement officers as defined in 18 U.S.C. Section 115 (c)(1). Expanding the investigative authority to include other Federal law enforcement beyond the Federal Bureau of Investigation will permit agencies with expertise in Indian issues and cultural resources, such as the Bureau of Indian Affairs law enforcement and the Department of Interior Cultural Resources, to thoroughly investigate complaints and work with Department of Justice attorneys to enforce these cases. The FBI will still have the ability to conduct such investigations should it choose to do so. I hope it will.

These amendments also recognize the important role of the Attorney General in enforcement. The amendments require the transmission of all investigation reports from Federal investigators to the Attorney General. The Attorney General can work directly with the investigators, and prosecute cases that warrant prosecution without waiting for the report to be referred by the Indian Arts and Crafts Board. This is an efficiency measure and is not designed to take away any authority the Board has to refer cases to the Attorney General. The Board will continue to receive all investigative reports and make referrals.

I believe these amendments to the act will strengthen the investigative and enforcement authority under the act and increase the number of complaints that are investigated and prosecuted. These violations are serious, and we need to provide the necessary federal resources to put an end to these crimes and preserve the cultural heritage of our Native people. I look forward to swift passage of these amendments.

By Mr. COCHRAN (for himself, Mr. STEVENS, Mr. WARNER, Mr. DODD, Mr. AKAKA, and Mr. BURNS):

S. 1376. A bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education; to the Committee on Health, Education, Labor, and Pensions.

Mr. COCHRAN. Mr. President, today, I am introducing the Teaching Geography is Fundamental Act. I am pleased to be joined by Senators STEVENS, DODD, WARNER, BURNS, and AKAKA. The Act's purpose is to improve geographic literacy among K–12 students in the United States by improving professional development programs for K–12 teachers offered through institutions of higher education. The bill also assists States in measuring the impact of education in geography.

To begin to understand other people, we need to understand ourselves. Eudora Welty said that understanding begins with a sense of place. When we understand our own environment, we can better understand the differences in other places, and the people who live

in them. The diversity of cultures, land, and distances between states within our nation is the first evidence we have that a good understanding of geography is necessary. According to the National Geographic Society, home is where the knowledge of geography begins.

The 2005 publication, What Works in Geography, reported that elementary school geography instruction significantly improves student achievement. And, the 2002 National Geographic-Roper Global Geographic Literacy Survey shows that more than half of American adults best able to read a map had taken a high school geography course. That's the good news. Unfortunately, other recent studies show us that nearly one third of our elementary schools have reduced the number of geography courses in the last few years, and only 7 percent of our Nation's fourth graders are taught by teachers with specific undergraduate or graduate experience in geography. Geography is taught by less than 9 percent of K–12 social studies teachers and not even one quarter of high school students graduate with a geography class.

To expect that Americans will be able to work economically and diplomatically with the other people in this world, we need to be able to communicate and understand each other. It is a fact that we have a global marketplace, and that will continue to be the case. We need to be preparing our younger generations for global competition and ensuring that they have a strong base to be able to participate in future industry. Geography knowledge improves those job opportunities.

Approximately 20 percent of the U.S. GDP, that's $2.3 trillion annually, results from international trade. According to the CIA World Factbook of 2005, many U.S. workers need geographic knowledge for this global economy. Geographic knowledge is increasingly needed for U.S. businesses in international markets. For example, the inadvertent placing of Kashmir outside of Indian territory on a time zone map in a widely used computer operating system forced a costly recall, fix, and reissue of the software.

A comprehensive geography education provides training in geospatial technologies, such as remote sensing and geographic information systems. This high-growth industry is expected to reach $30 billion in annual revenues by the end of 2005, up from $5 billion in 2002. Geospatial technologies are one of the three biggest emerging fields identified by the Department of Labor, and they are providing 75,000 new jobs annually. A strong geographic education system is a necessity for this industry's continuing advancement.

Geography literacy is essential to a well prepared citizenry in the 21st Century. Last year, then Secretary of State Colin Powell said, ''To solve most of the major problems facing our county today—from wiping out terrorism, to minimizing global environmental problems, to eliminating the scourge of AIDS—will require every young person to learn more about other regions, cultures, and languages.''

We need to do more to ensure that the teachers responsible for the education of our students, from kindergarten through high school graduation, are prepared to participate constructively in solving those problems. Over the last 15 years, the National Geographic Society has awarded more than $100 million in grants to educators, universities, geography alliances, and others for the purposes of advancing and improving the teaching of geography. Their models are successful and research shows that students who have benefitted from this teaching out perform other students. State geography alliances exist in 19 States, including Mississippi, endowed by grants from the society. It is clear that their efforts alone are not enough. My bill establishes a Federal commitment to enhance the education of our teachers, focus on geography education research, and develop reliable, advanced technology based classroom materials.

I hope the Senate will consider the seriousness of the need to invest in geography and I invite other Senators to cosponsor the Teaching Geography is Fundamental Act.

By Mr. MCCAIN:

S. 1379. A bill to provide increased rail transportation security; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, we are all deeply saddened by the tragic loss of life caused by the terrorist attacks in London last week. Those incidents are a painful reminder of the cruel nature of our enemies in this war, and of what we must do to fight and win against those who wish to eradicate our way of life.

I have said on many occasions that we cannot just play defense in this war, that instead we must take the fight to the enemy. Still, we must do what is possible to protect Americans at home. To that end, the Senate passed by unanimous consent last year the Rail Security Act of 2004, rail security legislation that, unfortunately, was not approved by the House of Representatives. The London bombings and the attacks on Madrid's commuter rail system last year demonstrate all too vividly the continuing need for this legislation.

Our Nation's transit system, Amtrak, and the freight railroads, I am sad to say, remain vulnerable to terrorist attacks. Though we have increased dramatically our security capabilities since 9/11, we have more to do. For example, since 9/11, only modest resources have been dedicated to rail security, and efforts to address rail security remain fragmented despite the constant and tragic reminders abroad that we are in desperate need of deliberate action. In fact, the Department of Homeland Security has not yet completed a vulnerability assessment for the rail system, nor is there an integrated security plan that reflects the unique characteristics of passenger and freight rail operations.

The legislation I am introducing today, which is nearly identical to the Rail Security Act of 2004, would authorize resources to ensure rail transportation security receives a high priority in our efforts to secure our country from terrorism. The legislation directs DHS to complete a vulnerability assessment for the rail system and make recommendations for addressing security weaknesses within 180 days of enactment. It would also authorize funding to address long-standing fire and life-safety needs for several tunnels along the Northeast Corridor, and would authorize appropriations to meet immediate security needs for intercity and freight rail transportation. Further, as recommended by the Government Accountability Office, the bill would require DHS to sign a memorandum of agreement with the Department of Transportation to add clarity to each department's roles and responsibilities with respect to rail security. It is my expectation that this memorandum would supplement and add detail to the memorandum of understanding between the two departments signed on September 28, 2004.

The freight railroads, individual commuter authorities, and Amtrak have, on their own initiative, completed risk assessments and taken steps to safeguard passengers, facilities, and cargo. These efforts, accomplished at a very small cost to the Federal Government, have helped make our rail system safer. The legislation introduced today will augment these efforts and bring these individual initiatives together in a coordinated rail security program.

I trust that the Senate will move quickly to once again pass this essential legislation. We owe at least that much to the American people as we continue our struggle against an enemy that wants nothing less than to destroy everything we stand for and believe in.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Rail Security Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2006 for the purpose of carrying out this section.

SEC. 3. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2005, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 5. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2006.

SEC. 6. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 7. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2006;

(B) $100,000,000 for fiscal year 2007;

(C) $100,000,000 for fiscal year 2008;

(D) $100,000,000 for fiscal year 2009; and

(E) $170,000,000 for fiscal year 2010.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide

adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2006;
(B) $10,000,000 for fiscal year 2007;
(C) $10,000,000 for fiscal year 2008;
(D) $10,000,000 for fiscal year 2009; and
(E) $17,000,000 for fiscal year 2010.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2006;
(B) $8,000,000 for fiscal year 2007;
(C) $8,000,000 for fiscal year 2008;
(D) $8,000,000 for fiscal year 2009; and
(E) $8,000,000 for fiscal year 2010.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2006 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. 8. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. 9. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2005, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2006 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''Sec.
''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. 10. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section 7(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and

Transportation Security $63,500,000 for fiscal year 2006 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 2, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) EQUITABLE ALLOCATION.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 10(b) of this Act.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section 2 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. 12. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2005 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 11(g) of this Act;

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety;

(6) other projects recommended in the report required by section 2.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2006 and 2007 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. 16. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. 17. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

''§ 20116. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

''20116. Whistleblower protection for rail security matters.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 192—AFFIRMING THAT THE FIRST AMENDMENT OF THE CONSTITUTION OF THE UNITED STATES GUARANTEES BY THE FREEDOM OF THE PRESS AND ASSERTING THAT NO PURPOSE IS SERVED BY SENTENCING JOURNALISTS JUDITH MILLER AND MATTHEW COOPER, NOR ANY SIMILARLY SITUATED JOURNALISTS, TO PRISON FOR MAINTAINING THE ANONYMITY OF CONFIDENTIAL SOURCES

Mr. LAUTENBERG (for himself, Mr. LUGAR, and Mr. DODD) submitted the following resolution; which was referred to the Committee on the Judiciary:

Whereas the First Amendment of the Constitution of the United States guarantees the freedom of the press;

Whereas it is essential to the democracy of the United States that journalists may report important information to the public without fear of intimidation or imprisonment;

Whereas a majority of the States and the District of Columbia have enacted media shield laws to protect the right of journalists to maintain the anonymity of confidential sources;

Whereas Robert Novak, the columnist first to publish the identity of a covert Central Intelligence Agency officer by name, stated that the Government should not imprison journalists for maintaining the anonymity of confidential sources;

Whereas a United States district court judge may soon sentence Matthew Cooper, the White House correspondent for Time Magazine, and Judith Miller, a journalist for the New York Times, to prison for contempt for refusing to disclose confidential sources;

Whereas that United States district court judge will hold a hearing to consider arguments against imprisonment of those journalists; and

Whereas it is the responsibility of the United States Senate to make its views known in areas of national and legal importance: Now, therefore, be it

Resolved, That the Senate—

(1) affirms that the First Amendment of the Constitution of the United States guarantees the freedom of the press; and

(2) proclaims that no purpose is served by imprisoning journalists Judith Miller and Matthew Cooper.

SENATE RESOLUTION 193—EXPRESSING SYMPATHY FOR THE PEOPLE OF THE UNITED KINGDOM IN THE AFTERMATH OF THE DEADLY TERRORIST ATTACKS ON LONDON ON JULY 7, 2005

Mr. FRIST (for himself, Mr. REID, Mr. LUGAR, Mr. BIDEN, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr.

DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 193

Whereas the United States and a broad international coalition have been engaged in a Global War on Terrorism since the terrorist attacks in Washington, D.C., New York, and Pennsylvania that occurred on September 11, 2001;

Whereas the people and Governments of the United States and the United Kingdom enjoy a deep and enduring friendship undergirded by shared history, language, and values;

Whereas the United Kingdom has been a strong and steadfast ally to the United States through two World Wars, the Cold War, the Gulf War, and the Global War on Terrorism, including the wars in Afghanistan and Iraq;

Whereas terrorists have planned and conducted attacks around the world during the four years after the Global War on Terrorism began in 2001, most notably the bombing of a night club on the Indonesian island of Bali on October 12, 2002 that killed 202 people and injured an additional 209, the bombings of two synagogues and the British Embassy in Istanbul, Turkey in November 2003, in which 56 people were killed and over 450 injured, and the bombing of the train system in Madrid, Spain on March 11, 2004 that killed more than 190 people and injured approximately 1,500;

Whereas on July 7, 2005, a series of four explosions struck the London public transportation system during the morning rush hour, killing at least 49 innocent civilians and injuring approximately 700 others;

Whereas a previously unknown terrorist group claimed responsibility for the attacks in the name of al Qaeda;

Whereas the terrorist attacks in London coincided with the opening of the G-8 Summit in Gleneagles, Scotland, a Summit committed to bringing help and hope to the poorest countries of the world;

Whereas President Bush immediately condemned the terrorist attacks and extended the ''heartfelt condolences'' of the people of the United States to the people of the United Kingdom;

Whereas Prime Minister Tony Blair vowed, on behalf of the United Kingdom and the world leaders attending the G-8 Summit in Gleneagles, Scotland, to remain steadfast and strong in the fight against terrorism, stating, ''All of our countries have suffered from the impact of terrorism. Those responsible have no respect for human life. We are united in our resolve to confront and defeat this terrorism that is not an attack on one nation, but all nations and on civilized people everywhere. . . . It's important . . . that those engaged in terrorism realize that our determination to defend our values and our way of life is greater than their determination to cause death and destruction to innocent people in a desire to impose extremism on the world'', and declared, ''We shall prevail, and [the terrorists] shall not'';

Whereas the North Atlantic Council, the governing body of the North Atlantic Treaty Organization, after meeting in an extraordinary session, reaffirmed the determination of the members of the North Atlantic Treaty Organization to combat the scourge of terrorism and defend the values of freedom, tolerance, and democracy using all available means;

Whereas world leaders attending the G-8 Summit in Gleneagles, Scotland expressed condolences to the people of the United Kingdom and issued a joint statement to ''condemn utterly these barbaric attacks''; and

Whereas Prime Minister Tony Blair, speaking on behalf of the world leaders attending the G-8 Summit in Gleneagles, Scotland, declared, ''We are united in the resolve'' to defeat terrorism, which is ''not an attack on one nation, but on all nations'': Now, therefore, be it

Resolved, That the Senate—

(1) expresses deepest sympathies and condolences to the people of the United Kingdom and the victims and their families for the heinous terrorist attacks that occurred in London on July 7, 2005;

(2) condemns these barbaric and unwarranted attacks on the innocent people of London;

(3) expresses strong and continued solidarity with the people of the United Kingdom and pledges to remain shoulder-to-shoulder with the people of the United Kingdom to bring the terrorists responsible for these brutal attacks to justice; and

(4) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedoms, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that breeds terrorism.

SENATE RESOLUTION 194—RELATIVE TO THE DEATH OF GAYLORD A. NELSON, FORMER UNITED STATES SENATOR FOR THE STATE OF WISCONSIN

Mr. FRIST (for himself, Mr. REID, Mr. FEINGOLD, Mr. KOHL, Mr. JEFFORDS, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

Whereas Gaylord A. Nelson served in the United States Army from 1942–1946;

Whereas Gaylord A. Nelson served as Governor of the State of Wisconsin from 1959–1963;

Whereas Gaylord A. Nelson served the people of Wisconsin with distinction for 18 years in the United States Senate;

Whereas Gaylord A. Nelson served the Senate as Chairman of the Select Committee on Small Business from the Ninety-Third through the Ninety-Sixth Congresses and as Chairman of the Special Committee on Official Conduct in the Ninety-Fifth Congress;

Whereas Gaylord A. Nelson received the Presidential Medal of Freedom in 1995;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Gaylord A. Nelson, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Gaylord A. Nelson.

SENATE RESOLUTION 195—RECOGNIZING THE SPIRIT OF JACOB MOCK DOUB AND HIS CONTRIBUTION TO ENCOURAGING YOUTH TO BE PHYSICALLY ACTIVE AND FIT, AND EXPRESSING SUPPORT FOR ''NATIONAL TAKE A KID MOUNTAIN BIKING DAY''

Mr. BURR (for himself and Mr. SALAZAR) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 195

Whereas according to the Centers for Disease Control and Prevention, obesity rates have nearly tripled in adolescents in the United States since 1980;

Whereas overweight adolescents have a 70 percent chance of becoming overweight or obese adults;

Whereas research conducted by the National Institutes of Health indicates that, while genetics do play a role in childhood obesity, the large increase in childhood obesity rates over the past few decades can be traced to overeating and lack of sufficient exercise;

Whereas the Surgeon General and the President's Council on Physical Fitness and

Sports recommend regular physical activity, including bicycling, for the prevention of overweight and obesity;

Whereas Jacob Mock ''Jack'' Doub, born July 11, 1985, was actively involved in encouraging others, especially children, to ride bicycles;

Whereas Jack Doub, an active youth with an avid interest in the outdoors, was introduced to mountain biking at the age of 11 near Grandfather Mountain, North Carolina, and quickly became a talented cyclist;

Whereas Jack Doub won almost every cross-country race he entered for 2 years and, between the ages of 14 and 17, became a top national-level downhill and slalom competitor;

Whereas Jack Doub placed second in the junior expert dual slalom at the 2002 National Off-Road Bicycling Association's National Championship Series at Snowshoe Mountain, West Virginia;

Whereas Jack Doub died unexpectedly from complications related to a bicycling injury on October 21, 2002;

Whereas Jack Doub's family and friends have joined, in association with the International Mountain Bicycling Association, to honor Jack Doub's spirit and love of bicycling by establishing the Jack Doub Memorial Fund to promote and encourage children of all ages to learn to ride and lead a physically active lifestyle;

Whereas the International Mountain Bicycling Association's worldwide network, which is based in Boulder, Colorado, includes 32,000 individual members, more than 450 bicycle clubs, 140 corporate partners, and 240 bicycle retailer members, who coordinate more than 1,000,000 volunteer trail work hours each year and have built more than 5,000 miles of new trails;

Whereas the International Mountain Bicycling Association has encouraged low-impact riding and volunteer trail work participation since 1988; and

Whereas ''National Take a Kid Mountain Biking Day'' was established in honor of Jack Doub in 2004 by the International Mountain Bicycling Association, and is celebrated on the first Saturday in October of each year: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes—

(A) the health risks associated with childhood obesity;

(B) the spirit of Jacob Mock ''Jack'' Doub; and

(C) Jack Doub's contribution to encouraging youth of all ages to be physically active and fit, especially through bicycling;

(2) supports the goals and ideals of ''National Take a Kid Mountain Biking Day'', which was established in honor of Jack Doub in 2004 by the International Mountain Bicycling Association, and is celebrated on the first Saturday in October of each year; and

(3) encourages parents, schools, civic organizations, and students to support the International Mountain Bicycling Association's ''National Take a Kid Mountain Biking Day'' to promote increased physical activity among youth in the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1105. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1106. Mrs. CLINTON (for herself, Mr. DURBIN, Mr. LAUTENBERG, Mr. CORZINE, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1107. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1108. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1109. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1110. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1111. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1112. Mr. AKAKA (for himself, Mr. LIEBERMAN, Mr. HARKIN, Ms. LANDRIEU, Mr. OBAMA, Mrs. MURRAY, Mr. CORZINE, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DURBIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1113. Mr. AKAKA (for himself, Mr. LIEBERMAN, Mr. HARKIN, Ms. LANDRIEU, Mr. OBAMA, Mrs. MURRAY, Mr. CORZINE, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DURBIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1114. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1115. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1116. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1117. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1118. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1119. Mr. REED (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1120. Mr. FEINGOLD (for himself, Mr. SUNUNU, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1121. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1122. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1123. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1124. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1125. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1126. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1127. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1128. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1129. Mr. REID (for Mrs. MURRAY (for herself, Mr. BYRD, Mr. AKAKA, and Mr. KERRY)) proposed an amendment to the bill H.R. 2360, supra.

SA 1130. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1131. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1132. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1133. Mr. GREGG proposed an amendment to the bill H.R. 2360, supra.

SA 1134. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1135. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1136. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1137. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1138. Mr. COLEMAN (for himself, Mr. LEVIN, Mr. WYDEN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1139. Mr. SESSIONS (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1140. Mr. SESSIONS (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1141. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1142. Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. DEWINE, Mr. COBURN, Mr. AKAKA, Mr. CARPER, Mr. SALAZAR, Mr. COLEMAN, Mr. VOINOVICH, Mr. REED, Mr. BINGAMAN, and Mr. HARKIN) proposed an amendment to the bill H.R. 2360, supra.

SA 1143. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1144. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1145. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1146. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1147. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1148. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1149. Mr. MCCAIN (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1150. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1151. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1152. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1153. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1154. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1155. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1156. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1157. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1158. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1159. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1160. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1161. Mr. REID (for himself, Mr. BIDEN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1162. Mr. KERRY (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1163. Mrs. FEINSTEIN (for herself and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1164. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1165. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1166. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1167. Mr. GRASSLEY (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1168. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1169. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1170. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1171. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1172. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1173. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1174. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1175. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1176. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1177. Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1178. Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1179. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1180. Mr. KENNEDY (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1181. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1182. Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. KERRY, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1183. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1184. Mr. SCHUMER (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1185. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1186. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1187. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1188. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1189. Mr. SCHUMER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1190. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1191. Mr. SCHUMER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1192. Mr. SCHUMER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1193. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1194. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1195. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1196. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1197. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1198. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1199. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1200. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1201. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1202. Mr. DODD (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1203. Mr. CORNYN (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1204. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1205. Mr. SHELBY (for himself, Mr. SARBANES, Mr. REED, Mrs. DOLE, Mr. DODD, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. BYRD, Mrs. CLINTON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1206. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1207. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1208. Mr. CORZINE submitted an amendment intended to be proposed by him

to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1209. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1210. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1211. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1212. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1213. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1214. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2360, supra; which was ordered to lie on the table.

SA 1215. Mrs. FEINSTEIN (for herself, Mr. CORNYN, Mr. LAUTENBERG, Mrs. BOXER, Mrs. HUTCHISON, Mr. KERRY, Mr. MARTINEZ, Mr. SCHUMER, Mr. NELSON of Florida, Mrs. CLINTON, Mr. CORZINE, and Mr. KENNEDY) proposed an amendment to amendment SA 1142 proposed by Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. DEWINE, Mr. COBURN, Mr. AKAKA, Mr. CARPER, Mr. SALAZAR, Mr. COLEMAN, Mr. VOINOVICH, Mr. REED, Mr. BINGAMAN, and Mr. HARKIN) to the bill H.R. 2360, supra.

TEXT OF AMENDMENTS

SA 1105. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____.(a) Not later than 15 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Director of the Federal Emergency Management Agency (including the Emergency Preparedness and Response Directorate and all other staff under the direction of the Secretary) (referred to in this section as the ''Secretary''), shall provide to the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate—

(1) a detailed list that describes, as of the date of enactment of this Act—

(A) all associated costs (as determined by the Secretary) incurred by New York City, the State of New York, and any other entity or organization established by New York City or the State of New York, as a result of the terrorist attacks of September 11, 2001, that were paid using funds made available by Congress; and

(B) all requests for funds submitted to the Department of Homeland Security and the Federal Emergency Management Agency by New York City and the State of New York (including the dates of submission, and dates of payment, if any, of those requests) that have been paid or rejected, or that remain unpaid; and

(2) a certified accounting and detailed description of—

(A) the amounts of funds made available after the terrorist attacks of September 11, 2001, that remain unexpended as of the date of enactment of this Act;

(B) the accounts containing those unexpended funds; and

(C) a detailed description of any plans of the Secretary for expenditure or obligation of those unexpended funds.

(b) Not later than 15 days after the date of receipt of a request from the Subcommittee on Homeland Security of the Committee on Appropriations of the Senate for any information in addition to information described in subsection (a), the Secretary, and such staff located in a regional office of the Department of Homeland Security or the Federal Emergency Management Agency as the Secretary determines to be appropriate, shall provide the information to the Subcommittee.

SA 1106. Mrs. CLINTON (for herself, Mr. DURBIN, Mr. LAUTENBERG, Mr. CORZINE, and Mr. SCHUMER) submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall assess and report in writing to the Committee on Appropriations, the Committee on Homeland Security and Government Affairs, and the Committee on Commerce, Science, and Transportation of the Senate on the following:

(1) The vulnerability posed to high risk areas and facilities from general aviation aircraft that could be stolen or used as a weapon or armed with a weapon.

(2) The security vulnerabilities existing at general aviation airports that would permit general aviation aircraft to be stolen.

(3) Low-cost, high-performance technology that could be used to easily track general aviation aircraft that could otherwise fly undetected.

(4) The feasibility of implementing security measures that would disable general aviation aircraft while on the ground and parked to prevent theft.

(5) The feasibility of performing requisite background checks on individuals working at general aviation airports that have access to aircraft or flight line activities.

(6) An assessment of the threat posed to high population areas, nuclear facilities, key infrastructure, military bases, and transportation infrastructure that stolen or hijacked general aviation aircraft pose especially if armed with weapons or explosives.

(7) An assessment of existing security precautions in place at general aviation airports to prevent breaches of the flight line and perimeter.

(8) An assessment of whether unmanned air traffic control towers provide a security or alert weakness to the security of general aviation aircraft.

(9) An assessment of the additional measures that should be adopted to ensure the security of general aviation aircraft.

(b) The report required by subsection (a) shall include cost estimates associated with implementing each of the measures recommended in the report.

SA 1107. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) From the money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Department of Veterans Affairs $1,500,000,000 for the fiscal year ending September 30, 2005, for medical services provided by the Veterans Health Administration, which shall be available until expended.

(b) The amount appropriated under subsection (a)—

(1) is designated as an emergency requirement pursuant to section 402 of H.Con.Res. 95 (109th Congress); and

(2) shall remain available until expended.

(c) This section shall take effect on the date of the enactment of this Act.

SA 1108. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. It is the sense of the Senate that the Secretary of Homeland Security should conduct a study of the feasibility of leveraging existing FM broadcast radio infrastructure to provide a first alert, encrypted, multi-point emergency messaging system for emergency response using proven technology.

SA 1109. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, line 20, insert before the period '': *Provided further*, That each State or territory that receives amounts under paragraph (1) or (2) shall provide a detailed report to the Office of State and Local Government Coordination and Preparedness on the identity of each recipient of such amounts made available by the State or territory and the date of receipt, date of expenditure or obligation, and purpose of such expenditure or obligation by that recipient: *Provided further*, That each State or territory described under the preceding proviso shall provide access to Congress of all records of that State or territory relating to such amounts: *Provided further*, That each recipient described under the proviso before the preceding proviso shall provide a written explanation to the State or territory from which any amount is received of the reasons that the expenditure or obligation of any such amount is consistent with the Interim National Preparedness Goal as established by the Department of Homeland Security and the National Priorities as set forth in Homeland Security Presidential Directive 8''.

SA 1110. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 19, insert ''or the proximity of existing or planned high impact targets, including liquified natural gas facilities and liquified petroleum vessels,'' after ''threat''.

SA 1111. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. None of the funds appropriated under this Act may be used to pro9mulgate regulations to implement the plan developed pursuant to section 7209(b) of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1185 note) to require United States citizens to present a passport or other documents upon entry into the United States from Canada.

SA 1112. Mr. AKAKA (for himself, Mr. LIEBERMAN, Mr. HARKIN, Ms. LANDRIEU, Mr. OBAMA, Mrs. MURRAY, Mr. CORZINE, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DURBIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 18, strike ''$2,694,300,000'' and insert ''$3,281,300,000''.

On page 77, line 20, strike ''$1,518,000,000'' and insert ''$1,985,000,000''.

On page 79, line 21, strike ''$321,300,000'' and insert ''$341,300,000''.

SA 1113. Mr. AKAKA (for himself, Mr. LIEBERMAN, Mr. HARKIN, Ms. LANDRIEU, Mr. OBAMA, Mrs. MURRAY, Mr. CORZINE, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. DURBIN, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 18, strike ''$2,694,300,000'' and insert ''$3,281,300,000''.

On page 77, line 20, strike ''$1,518,000,000'' and insert ''$1,985,000,000''.

On page 79, line 21, strike ''$321,300,000'' and insert ''$341,300,000''.

On page 81, line 24, strike ''$615,000,000'' and insert ''$715,000,000''.

On page 81, line 24, strike ''$550,000,000'' and insert ''$650,000,000''.

SA 1114. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $100,000,000, of which $50,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) and $50,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of such Act, for the fiscal year ending September 30, 2005, to be available immediately upon enactment, and to remain available until September 30, 2007: Provided, That not to exceed 5 percent of this amount shall be available for program administration.

SA 1115. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, line 24, strike ''615,000,000'' and insert ''$715,000,000'' and strike ''$550,000,000'' and insert ''$600,000,000'' and line 26, strike ''$65,000,000'' and insert ''$115,000,000''.

SA 1116. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 5_____.(a) Not later than 30 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Under Secretary for Emergency Preparedness and Response, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a detailed accounting of public assistance reimbursements provided to the States affected during 2004 by—

(1) Hurricane Charley;

(2) Hurricane Frances;

(3) Hurricane Ivan; or

(4) Hurricane Jeanne.

(b) The accounting under subsection (a) shall include a description of—

(1) the status of any pending public assistance reimbursement application relating to a State described in subsection (a);

(2) any entity the application for public assistance reimbursement of which was denied by the Under Secretary and the reasons why the application was denied;

(3) each public assistance reimbursement application that is under appeal as of the date on which the accounting is prepared; and

(4) the amount, and each recipient, of public assistance reimbursements described in subsection (a) as of the date on which the accounting is prepared, expressed in a chart.

SA 1117. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 5_____. In light of concerns regarding inconsistent policy memoranda and guidelines issued to counties and communities affected by the 2004 hurricane season, the Secretary of Homeland Security, acting through the Under Secretary for Emergency Preparedness and Response, shall provide clear, concise, and uniform guidelines for the reimbursement to any county or government entity affected by a hurricane of the costs of hurricane debris removal.

SA 1118. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 5_____. Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Under Secretary for Emergency Preparedness and Response, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing any changes to Federal emergency preparedness and response policies and practices made as a result of the report of the Inspector General of the Department of Homeland Security, dated May 20, 2005, relating to the individual and household program of the Federal Emergency Management Agency in Miami-Dade County, Florida, in response to Hurricane Frances.

SA 1119. Mr. REED (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 5_____.(a) Beginning in fiscal year 2006 and thereafter, the Commandant of the Coast Guard shall require an applicant for an order to site, construct, expand, or operate a liquefied natural gas import facility, in cooperation with the Commandant and State and local agencies that provide for the safety and security of the liquefied natural gas import facility and any vessels that serve the facility, to develop a cost-sharing plan before the date on which the Federal Energy Regulatory Commission issues an order authorizing the applicant to site the facility.

(b) A cost-sharing plan developed under subsection (a) shall include a description of any direct cost reimbursements that the applicant agrees to provide to any State and local agencies with responsibility for security and safety—

(1) at the liquefied natural gas import facility; and

(2) in proximity to vessels that serve the facility.

SA 1120. Mr. FEINGOLD (for himself, Mr. SUNUNU, and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____.(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term ''data-mining'' means a query or search or other analysis of 1 or more electronic databases, whereas—

(A) at least 1 of the databases was obtained from or remains under the control of a non-

Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a predictive pattern indicating terrorist or criminal activity; and

(C) the search does not use a specific individual's personal identifiers to acquire information concerning that individual.

(2) DATABASE.—The term ''database'' does not include telephone directories, news reporting, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) REPORTS ON DATA-MINING ACTIVITIES BY THE DEPARTMENT OF HOMELAND SECURITY.—

(1) REQUIREMENT FOR REPORT.—The head of each department or agency in the Department of Homeland Security that is engaged in any activity to use or develop data-mining technology shall each submit a report to Congress on all such activities of the agency under the jurisdiction of that official. The report shall be made available to the public.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that is being or will be used.

(B) A thorough description of the goals and plans for the use or development of such technology and, where appropriate, the target dates for the deployment of the data-mining technology.

(C) An assessment of the efficacy or likely efficacy of the data-mining technology in providing accurate information consistent with and valuable to the stated goals and plans for the use or development of the technology.

(D) An assessment of the impact or likely impact of the implementation of the data-mining technology on the privacy and civil liberties of individuals.

(E) A list and analysis of the laws and regulations that govern the information being or to be collected, reviewed, gathered, analyzed, or used with the data-mining technology.

(F) A thorough discussion of the policies, procedures, and guidelines that are in place or that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected, reviewed, gathered, analyzed, or used.

(G) Any necessary classified information in an annex that shall be available to the Committee on Homeland Security and Governmental Affairs, the Committee on the Judiciary, and the Committee on Appropriations of the Senate and the Committee on Homeland Security, the Committee on the Judiciary, and the Committee on Appropriations of the House of Representatives.

SA 1121. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 20, strike ''$1,518,000,000'' and insert ''$1,985,000,000''.

On page 79, line 21, strike ''321,300,000'' and insert ''341,300,000''.

On page 79, line 22, insert before the colon '', of which $30,000,000 shall be made available for the metropolitan medical response system''.

On page 81, line 24, strike ''$615,000,000'' and insert ''$715,000,000''.

On page 81, line 24, strike ''$550,000,000'' and insert ''$650,000,000''.

SA 1122. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) The amount appropriated under the heading ''AVIATION SECURITY'' for screening operations is hereby increased by $334,971, of which $334,971 shall be available for passenger and baggage screener pay, compensation, and benefits. Such amount shall be in addition to any other amounts appropriated for such pay, compensation, and benefits.

(b) None of the funds appropriated to the Transportation Security Administration in this Act may be used to enter into contracts with nongovernmental entities to provide passenger and baggage screening functions.

SA 1123. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 73, line 13, strike ''$988,600,000'' and insert ''$1,082,900,000''.

On page 73, line 15, strike ''program:'' and insert ''program, of which $94,300,000 shall be used for accelerating the fast response cutter acquisition:''.

On page 77, line 18, strike ''$2,694,300,000,'' and insert $2,600,000,000,''.

SA 1124. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 20, insert ''of which $367,552,000 shall be transferred to Customs and Border Protection for hiring an additional 1,000 border agents and for other necessary support activities for such agency; and'' after ''local grants,''.

SA 1125. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, line 26, before the period, insert the following: '': *Provided further*, That of the total amount made available under this heading for the support and acquisition of mobile medical units to be used by the Federal Emergency Management Agency, Directorate of Emergency Preparedness and Response, in response to domestic disasters, the Secretary of Homeland Security is encouarged to acquire an integrated mobile medical system for testing and evaluation in accordance with subchapter V of chapter 35 of title 31, United States Code (commonly known as the 'Competition in Contracting Act')''.

SA 1126. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. The amount appropriated by title III under the heading ''OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS'' is increased by $1,100,000,000, of which $1,100,000,000 shall be made available for discretionary transportation and infrastructure grants for intercity passenger rail transportation, freight rail, and transit security.

SA 1127. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

TITLE VI—SEAPORTS

SEC. 601. SHORT TITLE.

This title may be cited as the ''Reducing Crime and Terrorism at America's Seaports Act of 2005''.

SEC. 602. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking ''or'' at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

''(3) any secure or restricted area of any seaport, designated as secure in an approved security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section; or'';

(2) in subsection (b)(1), by striking ''5'' and inserting ''10'';

(3) in subsection (c)(1), by inserting '', captain of the seaport,'' after ''airport authority''; and

(4) by striking the section heading and inserting the following:

''§ 1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

''1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.''.

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

''§ 26. Definition of seaport

''As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures, adjacent to any waters subject to the jurisdiction of the United States, to which a vessel may be secured, including areas of land, water, or land and water under and in immediate proximity to such structures, buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 25 the following:

''26. Definition of seaport.''.

SEC. 603. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

''§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

''(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

''(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

''(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law or to resist a lawful arrest; or

''(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is materially false.

''(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Secretary of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

''(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

''(d) In this section—

''(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

''(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

''(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903); and

''(4) the term 'vessel of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

''(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

''2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.''.

SEC. 604. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting '', passenger vessel,'' after ''transportation vehicle'';

(B) in paragraphs (2)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(C) in paragraph (3)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle'' each place that term appears; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider'' each place that term appears;

(D) in paragraph (5)—

(i) by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(ii) by inserting ''or owner of the passenger vessel'' after ''transportation provider''; and

(E) in paragraph (6), by inserting ''or owner of a passenger vessel'' after ''transportation provider'' each place that term appears;

(2) in subsection (b)(1), by inserting '', passenger vessel,'' after ''transportation vehicle''; and

(3) in subsection (c)—

(A) by redesignating paragraph (6) through (8) as paragraphs (7) through (9); and

(B) by inserting after paragraph (5) the following:

''(6) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.''.

SEC. 605. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

(a) KNOWING DISCHARGE OR RELEASE.—Chapter 111 of title 18, United States Code, is amended by adding after section 2281 the following:

''§ 2282. Knowing discharge or release

''(a) ENDANGERMENT OF HUMAN LIFE.—A person who knowingly discharges or releases oil, hazardous material, a noxious liquid substance, or any other dangerous substance into navigable waters or onto the adjoining shoreline with the intent to endanger human life, or health, or welfare shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into navigable waters or onto the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

''(c) DEFINITIONS.—In this section:

''(1) DISCHARGE.—The term 'discharge' includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

''(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

''(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

''(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, United States Code, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

''(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).

''(6) OIL.—The term 'oil' has the meaning given the term in section 1321(a)(1) of title 33, United States Code; and

''(7) DANGEROUS SUBSTANCE.—The term 'dangerous substance' means any solid, liquid, or gaseous material that has the capacity of endangering human life, health, or welfare.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

''2282. Knowing discharge or release.''.

(c) PLACEMENT OF DESTRUCTIVE DEVICES.—Chapter 111 of title 18, United States Code, as amended by subsection (a), is further amended by adding at the end the following:

''§ 2282A. Devices or dangerous substances in waters of the united states likely to destroy or damage ships or to interfere with maritime commerce

''(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or dangerous substance which is likely to destroy or cause damage to a vessel or its cargo, cause interference with the safe navigation of vessels, or interference with maritime commerce (such as by damaging or destroying marine terminals, facilities, or any other marine structure or entity used in maritime commerce) with the intent of causing such destruction or damage, interference with the safe navigation of vessels, or interference with maritime commerce shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) A person who causes the death of any person by engaging in conduct prohibited under subsection (a) may be punished by death.

''(c) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.

''(d) In this section:

''(1) The term 'dangerous substance' means any solid, liquid, or gaseous material that has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.

''(2) The term 'device' means any object that, because of its physical, mechanical, structural, or chemical properties, has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsection (b), is further amended by adding after the item related to section 2282 the following:

''2282A. Devices or dangerous substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.''.

(d) VIOLENCE AGAINST MARITIME NAVIGATION.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code as amended by subsections (a) and (c), is further amended by adding at the end the following:

"§ 2282B. Violence against aids to maritime navigation

''Whoever intentionally destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship, shall be fined under this title, imprisoned for not more than 20 years, or both.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsections (b) and (d) is further amended by adding after the item related to section 2282A the following:

''2282B. Violence against aids to maritime navigation.''.

SEC. 606. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by section 605, is further amended by adding at the end the following:

"§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

''(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any vessel outside the United States and on the high seas or having United States nationality an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) CAUSING DEATH.—Any person who causes the death of any person by engaging in conduct prohibited by subsection (a) may be punished by death.

''(c) DEFINITIONS.—In this section:

''(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

''(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

''(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F(1).

''(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5).

''(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

''(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

''(A) source material and special nuclear material, but does not include natural or depleted uranium;

''(B) nuclear by-product material;

''(C) material made radioactive by bombardment in an accelerator; or

''(D) all refined isotopes of radium.

''(8) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

''(9) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

"§ 2284. Transportation of terrorists

''(a) IN GENERAL.—Any person who knowingly and intentionally transports any terrorist aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any vessel outside the United States and on the high seas or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

''(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by section 605, is further amended by adding at the end the following:

''2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.

''2284. Transportation of terrorists.''.

SEC. 607. DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

"CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

''Sec.

''2290. Jurisdiction and scope.

''2291. Destruction of vessel or maritime facility.

''2292. Imparting or conveying false information.

''2293. Bar to prosecution.

"§ 2290. Jurisdiction and scope

''(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

''(1) within the United States and within waters subject to the jurisdiction of the United States; or

''(2) outside United States and—

''(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(B) the activity involves a vessel in which a national of the United States was on board; or

''(C) the activity involves a vessel of the United States (as that term is defined under section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

''(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

"§ 2291. Destruction of vessel or maritime facility

''(a) OFFENSE.—Whoever willfully—

''(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

''(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 31(a)(3), in, upon, or near, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

''(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment;

''(4) interferes by force or violence with the operation of any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment, if such action is likely to endanger the safety of any vessel in navigation;

''(5) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(6) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

''(7) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365(h)(3), in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

''(8) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

''(9) attempts or conspires to do anything prohibited under paragraphs (1) through (8),

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the transportation of hazardous materials regulated and allowed to be transported under chapter 51 of title 49.

''(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under this title, imprisoned for a term up to life, or both.

''(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a) and intended to cause death by the prohibited conduct, if the conduct resulted in the death of any person, shall be subject also to the death penalty or to a term of imprisonment for a period up to life.

''(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

"§ 2292. Imparting or conveying false information

''(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

''(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

''(c) JURISDICTION.—

''(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

''(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 111 of this title, to which the imparted or conveyed false information relates, as applicable.

''§ 2293. Bar to prosecution

''(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

''(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

''(2) such conduct is prohibited as a misdemeanor, and not as a felony, under the law of the State in which it was committed.

''(b) DEFINITIONS.—In this section:

''(1) LABOR DISPUTE.—The term 'labor dispute' has the same meaning given that term in section 13(c) of the Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes (29 U.S.C. 113(c), commonly known as the Norris-LaGuardia Act).

''(2) 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.''.

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

''111A. Destruction of, or interference with, vessels or maritime facilities ..... 2290''.

SEC. 608. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''trailer,'' after ''motortruck,'';

(B) by inserting ''air cargo container,'' after ''aircraft,''; and

(C) by inserting '', or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility,'' after ''air navigation facility'';

(2) in the fifth undesignated paragraph, by striking ''one year'' and inserting ''3 years''; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: ''For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.''.

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

'' 'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.''.

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—

(A) TRANSPORTATION.—Section 2312 of title 18, United States Code, is amended by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''.

(B) SALE.—Section 2313(a) of title 18, United States Code, is amended by striking ''motor vehicle or aircraft'' and inserting ''motor vehicle, vessel, or aircraft''.

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this Act.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this Act.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2005.

SEC. 609. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) REPORTING, ENTRY, CLEARANCE REQUIREMENTS.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking ''or aircraft pilot'' and inserting ''aircraft pilot, operator, owner of such vessel, vehicle or aircraft, or any other responsible party'';

(2) striking ''$5,000'' and inserting ''$10,000''; and

(3) striking ''$10,000'' and inserting ''$25,000''.

(b) CRIMINAL PENALTY.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended—

(1) by striking ''or aircraft pilot'' and inserting ''aircraft pilot, operator, owner of such vessel, vehicle, or aircraft, or any other responsible party''; and

(2) by striking ''$2,000'' and inserting ''$10,000''.

(c) FALSITY OR LACK OF MANIFEST.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking ''$1,000'' in each place it occurs and inserting ''$10,000''.

SEC. 610. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking ''Shall be fined under this title or imprisoned not more than one year, or both.'' and inserting the following:

''(1) shall be fined under this title, imprisoned not more than 5 years, or both;

''(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

''(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.''.

SEC. 611. BRIBERY AFFECTING PORT SECURITY.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''§ 226. Bribery affecting port security

''(a) IN GENERAL.—Whoever knowingly—

''(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent to commit international terrorism or domestic terrorism (as those terms are defined under section 2331), to—

''(A) influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

''(B) induce any official or person to do or omit to do any act in violation of the lawful duty of such official or person that affects any secure or restricted area or seaport; or

''(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

''(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

''(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism,

shall be fined under this title, imprisoned not more than 15 years, or both.

''(b) DEFINITION.—In this section, the term 'secure or restricted area' means an area of a vessel or facility designated as secure in an approved security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

''226. Bribery affecting port security.''.

SA 1128. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. The amount appropriated by title III under the heading ''OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS'' is increased by $495,000,000, of which $495,000,000 shall be made available for discretionary transportation and infrastructure grants for intercity passenger rail transportation, freight rail, and transit security.

SA 1129. Mr. REID (for Ms. MURRAY (for herself, Mr. BYRD, MR. AKAKA, and Mr. KERRY)) proposed an amendment to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the appropriate place, insert the following:

SECTION 1. VETERANS HEALTH ADMINISTRATION.

(a) IN GENERAL.—From any money in the Treasury not otherwise obligated or appropriated, there are appropriated to the Department of Veterans Affairs $1,500,000,000 for the fiscal year ending September 30, 2005, for medical services provided by the Veterans Health Administration, which shall remain available until expended.

(b) EMERGENCY DESIGNATION.—The amount appropriated under subsection (a) is designated as an emergency requirement pursuant to (section 402 of H. Con. Res. 95 (109th Congress).

(c) This section shall take effect on the date of enactment of this Act.

SA 1130. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. HOMELAND SECURITY ASSISTANCE.

It is the sense of the Senate that the Senate agrees with the recommendation of the Final Report of the National Commission on Terrorist Attacks Upon the United States (commonly known as the ''9/11 Report''), which includes the following: ''Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. . . . [F]ederal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerabilities that merit additional support.''.

SA 1131. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. RISK-BASED HOMELAND SECURITY FUNDING.

(a) SHORT TITLE.—This section may be cited as the ''Risk-Based Homeland Security Funding Act''.

(b) FINDINGS.—Congress agrees with the recommendation of the Final Report of the National Commission on Terrorist Attacks Upon the United States (commonly known as the ''9/11 Report''), which includes the following: ''Homeland security assistance should be based strictly on an assessment of risks and vulnerabilities. . . . [F]ederal homeland security assistance should not remain a program for general revenue sharing. It should supplement state and local resources based on the risks or vulnerabilities that merit additional support.''.

(c) RISK-BASED HOMELAND SECURITY GRANT FUNDING.—

(1) CRITERIA FOR AWARDING HOMELAND SECURITY GRANTS.—Except for grants awarded under any of the programs listed under subsection d(2), all homeland security grants related to terrorism prevention and terrorism preparedness shall be awarded based strictly on an assessment of risk, threat, and vulnerabilities, as determined by the Secretary of Homeland Security.

(2) LIMITATION.—Except for grants awarded under any of the programs listed under subsection d(2), none of the funds appropriated for Homeland Security grants related to terrorism prevention and terrorism preparedness may be used for general revenue sharing.

(3) CONFORMING AMENDMENT.—Section 1014(c)(3) of the USA PATRIOT ACT (42 U.S.C. 3714(c)(3)) is repealed.

(d) PRESERVATION OF PRE-9/11 GRANT PROGRAMS FOR TRADITIONAL FIRST RESPONDER MISSIONS.—

(1) SAVINGS PROVISION.—This section shall not be construed to affect any authority to award grants under a Federal grant program listed under paragraph (2), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

(2) PROGRAMS EXCLUDED.—The programs referred to in paragraph (1) are the following:

(A) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(B) The Emergency Management Performance Grant Program and the Urban Search and Rescue Grant Program authorized under—

(i) title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.);

(ii) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 1060974; 113 Stat. 1047 et seq.); and

(iii) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

(C) The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(D) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(E) Grant programs under the Public Health Service Act (42 U.S.C. 201 et seq.) regarding preparedness for bioterrorism and other public health emergencies.

(F) The Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

SA 1132. Mr. LAUTENBERG (for himself and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. RISK-BASED HOMELAND SECURITY FUNDING.

Notwithstanding any other provision of law (including any provision of title III of this Act), all homeland security grants related to terrorism prevention and terrorism preparedness shall be allocated based on an assessment of risks, threats, and vulnerabilities.

SA 1133. Mr. GREGG proposed an amendment to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; as follows:

On page 81, line 22, strike ''For necessary'' down through and including on line 4, page 82, and insert the following:

''For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $615,000,000, of which $500,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) an $115,000,000 shall be available to carry out section 34 (15 U.S.C. 2229a) of such Act, to remain available until September 30, 2007: Provided, That not to exceed 5 percent of this amount shall be available for program administration.''

SA 1134. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

TITLE ___—SCREENING MUNICIPAL SOLID WASTE

SEC. ___. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

(a) DEFINITION.—In this section, 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 section, the Bureau of Customs and Border Protection shall submit a report to Congress 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 such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) 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 such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.

SA 1135. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year

ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a)(1) There is established in the Department of Homeland Security an International Border Community Interoperable Communications Demonstration Project (referred to in this section as ''demonstration project'') to address the interoperable communications needs of police officers, firefighters, emergency medical technicians, National Guard, and other emergency response providers, as defined in the Homeland Security Act of 2002.

(2) The Secretary of Homeland Security shall select no fewer than 4 communities to participate in a demonstration project.

(3) No fewer than 2 of the communities selected under paragraph (2) shall be located on the northern border of the United States and no few than 2 of the communities selected under paragraph (2) shall be located on the southern border of the United States. The Secretary shall select sites along the international borders that reflect a variety of conditions, including at least one site with at least 8,000,000 border crossings per year, commercial activity of at least $50,000,000,000 per year, and critical infrastructure, such as bridges, railways, pipelines, and water resources.

(b)(1) The Secretary of Homeland Security shall distribute funds under this section to each community participating in a demonstration project under this section through the State or States in which each community is located.

(2) A State receiving funds under this section shall make the funds available to the local governments and emergency response providers participating in a demonstration project selected by the Secretary of Homeland Security not later than 60 days after receiving funds.

(c) Not later than December 31, 2005, and each year thereafter in which funds are appropriated for a demonstration project, the Secretary of Homeland Security shall provide 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 on the demonstration projects under this section.

(d)(1)) Of the amounts appropriated by this Act, $10,000,000 shall be for necessary expenses to carry out this section.

(2) The amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, ACQUISITION, AND OPERATIONS'' is hereby reduced by $10,000,000.

SA 1136. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) AVAILABILITY OF AMOUNT FOR GRAND FORKS AIR WING BASE, NORTH DAKOTA.—Of the amount appropriated by title II of this Act under the heading ''BORDER AND TRANSPORTATION SECURITY'' under the heading ''AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT'' and available for the Northern border airwings, $2,000,000 may be available for the Grand Forks Air Wing Base, North Dakota.

(b) REPORT ON ESTABLISHMENT OF AIR WING BASE.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the establishment of Grand Forks Air Wing Base as part of the Northern border airwing system. The report shall set forth an estimate of the cost of establishment of the Grand Forks Air Wing Base, together with a proposed schedule for completion of the Grand Forks Air Wing Base.

SA 1137. Ms. COLLINS submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 12, strike the period at the end and insert the following: '': Provided further, That funds made available under this paragraph may be used for overtime costs associated with providing enhanced law enforcement operations in support of Federal agencies for increased border security and border crossing enforcement.''.

SA 1138. Mr. COLEMAN (for himself, Mr. LEVIN, Mr. WYDEN, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. PAYMENTS TO FEDERAL CONTRACTORS WITH FEDERAL TAX DEBT.

The General Services Administration, in conjunction with the Internal Revenue Service and the Financial Management Service, shall develop procedures to subject purchase card payments to Federal contractors to the Federal Payment Levy program.

SEC. 520. REPORTING OF AIR TRAVEL BY FEDERAL GOVERNMENT EMPLOYEES.

(a) ANNUAL REPORTS REQUIRED.—The Administrator of the General Services shall submit annually to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on all first class and business class travel by employees of each executive agency undertaken at the expense of the Federal Government.

(b) CONTENT.—The reports submitted pursuant to subsection (a) shall include, at a minimum, with respect to each travel by first class or business class—

(1) the names of each traveler;

(2) the date of travel;

(3) the points of origination and destination;

(4) the cost of the first class or business class travel; and

(5) the cost difference between such travel and travel by coach class.

(c) EXECUTIVE AGENCY DEFINED.—In this section, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SA 1139. Mr. SESSIONS (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 56, line 19, strike ''$124,620,000'' and insert ''$123,620,000''.

At the appropriate place, insert the following:

SEC. ____.(a) There are appropriated, out of any money in the Treasury not otherwise appropriated, for the Directorate of Border and Transportation Security for the fiscal year ending September 30, 2006, $1,000,000 for entering information into the Immigration Violators File of the National Crime Information Center database about immigration violators, including all aliens—

(1) against whom a final order of removal has been issued;

(2) who have signed a voluntary departure agreement;

(3) who have overstayed their authorized period of stay; or

(4) whose visas have been revoked.

(b) The information described in subsection (a) shall be provided to the National Crime Information Center and entered into the Immigration Violators File regardless of whether—

(1) the alien received notice of a final order of removal;

(2) the alien has already been removed; or

(3) sufficient identifying information is available regarding the alien.

SA 1140. Mr. SESSIONS (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 56, strike line 19 and insert the following: ''as authorized by law, $113,139,000: *Provided*, That not to''.

On page 57, line 1, strike ''$146,322,000'' and insert ''$116,803,000''.

At the appropriate place, insert the following:

SEC. ____. TRAINING STATE AND LOCAL PERSONNEL TO PERFORM IMMIGRATION FUNCTIONS.

(a) IN GENERAL.—There are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Homeland Security for the fiscal year ending September 30, 2006, $40,000,000, of which—

(1) $20,000,000 may be used to facilitate agreements under 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)); and

(2) $20,000,000 may be used to reimburse States and political subdivisions of any State for expenses described in subsection (c).

(b) ELIGIBLE RECIPIENTS.—Reimbursement under subsection (a)(2) is limited to States and political subdivisions of any State that—

(1) have entered into a written agreement under section 287(g) of such Act under which certain officers or employers are authorized to perform certain functions of an immigration officer; and

(2) desire that such officers or employees receive training from the Department of Homeland Security in relation to such functions.

(c) EXPENSE.—The expenses described in this subsection are the actual and necessary expenses incurred by the State or political subdivision in support of the training described in subsection (b)(2), including—

(1) costs related to travel and transportation to locations where training is provided, including mileage and related allowances for the use of a privately owned automobile;

(2) subsistence payments, including lodging, meals, and other necessary expenses for

the personal sustenance and comfort of a person required to travel away from the person's regular post of duty in order to participate in the training;

(3) a per diem allowance paid instead of actual expenses for subsistence and fees or tips to porters and stewards; and

(4) costs of securing temporary replacements or personnel traveling to, and participating in, the training, including overtime expenses.

SA 1141. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—PROTECTION OF RAILROAD CARRIERS AND MASS TRANSPORTATION

SEC. __01. SHORT TITLE.

This title may be cited as the ''Railroad Carriers and Mass Transportation Protection Act of 2005''.

SEC. __02. ATTACKS AGAINST RAILROAD CARRIERS, PASSENGER VESSELS, AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 and 1993 and inserting the following:

''§11992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

''(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

''(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

''(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

''(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

''(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

''(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

''(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

''(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

''(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

''(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

''(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

''(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

''(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7),

shall be fined under this title, imprisoned not more than 20 years, or both.

''(b) AGGRAVATED OFFENSE.—(1) Whoever commits an offense under subsection (a) in a circumstance in which—

''(A) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

''(B) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(C) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

''(i) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

''(ii) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

''(D) the offense results in the death of any person,

shall be fined under this title, imprisoned for any term of years or life, or both.

''(2) The term of imprisonment for a violation described in paragraph (1)(B) shall be not less than 30 years.

''(3) In the case of a violation described in paragraph (1)(D), the offender shall be fined under this title and imprisoned for a term of years up to life or sentenced to death, in accordance with section 3591 of title 18, United States Code.

''(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance described in this subsection is any of the following:

''(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

''(2) Any person who travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

''(d) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

''(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter; or

''(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

''(e) DEFINITIONS.—In this section—

''(1) the term 'biological agent' has the meaning given the term in section 178(1);

''(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

''(3) the term 'destructive device' has the meaning given the term in section 921(a)(4);

''(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

''(5) the term 'hazardous material' has the meaning given the term in section 5102(2) of title 49;

''(6) the term 'high-level radioactive waste' has the meaning given the term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

''(7) the term 'mass transportation' has the meaning given the term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

''(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

''(9) the term 'passenger vessel' has the meaning given the term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel (as defined under section 2101(35) of that title);

''(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

''(11) the term 'railroad' has the meaning given the term in section 20102(1) of title 49;

''(12) the term 'railroad carrier' has the meaning given the term in section 20102(2) of title 49;

''(13) the term 'serious bodily injury' has the meaning given the term in section 1365(h)(3);

''(14) the term 'spent nuclear fuel' has the meaning given the term in section 2(23) of

the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

''(15) the term 'State' has the meaning given the term in section 2266(8);

''(16) the term 'toxin' has the meaning given the term in section 178(2); and

''(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.''.

(b) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking ''**RAILROADS**'' in the chapter heading and inserting ''**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**'';

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

''1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air.''.

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

''97. Railroad carriers and mass transportation systems on land, on water, or through the air ..... 1991''.

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking ''1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),'';

(B) in section 2339A, by striking ''1993,''; and

(C) in section 2516(1)(c) by striking ''1992 (relating to wrecking trains),'' and inserting ''1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),''.

SA 1142. Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. DEWINE, Mr. COBURN, Mr. AKAKA, Mr. CARPER, Mr. SALAZAR, Mr. COLEMAN, Mr. VOINOVICH, Mr. REED, Mr. BINGAMAN, and Mr. HARKIN) proposed an amendment to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE VI—HOMELAND SECURITY GRANT ENHANCEMENT

SEC. 601. SHORT TITLE.

This title may be cited as the ''Homeland Security Grant Enhancement Act of 2005''.

SEC. 602. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.

(a) IN GENERAL.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 801 the following:

''SEC. 802. INTERAGENCY COMMITTEE TO COORDINATE AND STREAMLINE HOMELAND SECURITY GRANT PROGRAMS.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Consistent with section 871, the Secretary, in coordination with the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Administrator of the Environmental Protection Agency, and other agencies providing assistance for emergency response provider preparedness, as identified by the President, shall establish the Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs (referred to in this subtitle as the 'Interagency Committee').

''(2) COMPOSITION.—The Interagency Committee shall be composed of—

''(A) at least 2 representatives of the Department, including a representative of the United States Fire Administration;

''(B) a representative of the Department of Health and Human Services;

''(C) a representative of the Department of Transportation;

''(D) a representative of the Department of Justice;

''(E) a representative of the Environmental Protection Agency;

''(F) at least 2 State Governors, or their designees, or other local or tribal officials; and

''(G) a representative of any other department or agency determined to be necessary by the President.

''(3) RESPONSIBILITIES.—The Interagency Committee shall—

''(A) provide any findings to the Information Clearinghouse established under section 801(c);

''(B) consult with State and local governments and emergency response providers regarding their homeland security needs and capabilities;

''(C) advise the Secretary on the development of performance measures for homeland security and other first responder assistance programs;

''(D) compile a list of homeland security and other first responder assistance programs;

''(E) not later than 1 year after the date of enactment of the Homeland Security Grant Enhancement Act of 2005—

''(i) develop a proposal to coordinate, to the maximum extent practicable, the planning, reporting, application, and other guidance documents contained in homeland security assistance programs to—

''(I) eliminate all redundant and duplicative requirements and onerous application and ongoing reporting requirements;

''(II) ensure accountability of the programs to the intended purposes of such programs;

''(III) coordinate expenditures of grant funds to avoid duplicative or inconsistent purchases; and

''(IV) make the programs as user friendly as possible for applicants, including reducing lapsed time between grant applications, decisions and payments, easing fund matching requirements, and improving application guidance; and

''(ii) submit the proposal developed under clause (i) to—

''(I) the President;

''(II) the Committee on Homeland Security and Governmental Affairs of the Senate; and

''(III) the Committee on Homeland Security of the House of Representatives; and

''(F) otherwise promote the coordination of homeland security grant programs throughout the Federal government.

''(b) ADMINISTRATION.—The Department shall provide administrative support to the Interagency Committee, which shall include—

''(1) scheduling meetings;

''(2) preparing agenda;

''(3) maintaining minutes and records; and

''(4) producing reports.

''(c) CHAIRPERSON.—The Secretary shall designate a chairperson of the Interagency Committee.

''(d) MEETINGS.—The Interagency Committee shall meet—

''(1) at the call of the Secretary; or

''(2) not less frequently than once every month.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 801 the following:

''Sec. 802. Interagency Committee to Coordinate and Streamline Homeland Security Grant Programs.''.

SEC. 603. STREAMLINING FEDERAL HOMELAND SECURITY GRANT ADMINISTRATION.

(a) DIRECTOR OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS.—Section 801(a) of the Homeland Security Act of 2002 (6 U.S.C. 361(a)) is amended to read as follows:

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established within the Office of the Secretary the Office for State and Local Government Coordination and Preparedness, which shall oversee and coordinate departmental programs for, and relationships with, State and local governments.

''(2) EXECUTIVE DIRECTOR.—The Office established under paragraph (1) shall be headed by the Executive Director of State and Local Government Coordination and Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate.''.

(b) OFFICE FOR DOMESTIC PREPAREDNESS.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(1) by redesignating section 430 as section 803 and transferring that section to the end of subtitle A of title VIII, as amended by section 602; and

(2) in section 803, as redesignated by paragraph (1)—

(A) in subsection (a), by striking ''the Directorate of Border and Transportation Security'' and inserting ''the Office for State and Local Government Coordination and Preparedness'';

(B) in subsection (b), by striking ''who shall be appointed by the President'' and all that follows and inserting ''who shall report directly to the Executive Director of State and Local Government Coordination and Preparedness.''; and

(C) in subsection (c)—

(i) in paragraph (7)—

(I) by striking ''other'' and inserting ''the''; and

(II) by striking ''consistent with the mission and functions of the Directorate'';

(ii) in paragraph (8)—

(I) by inserting ''carrying out'' before ''those elements''; and

(II) by striking ''and'' at the end;

(iii) in paragraph (9), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(10) managing the Homeland Security Information Clearinghouse established under section 801(c).''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TABLE OF CONTENTS.—The table of contents for the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(A) by striking the item relating to section 430;

(B) by amending the item relating to section 801 to read as follows:

''Sec. 801. Office of State and Local Government Coordination and Preparedness.'';

and

(C) by inserting after the item relating to section 802, as added by this title, the following:

''Sec. 803. Office for Domestic Preparedness.''.

(2) SECTION HEADING.—Section 801 of the Homeland Security Act of 2002 (6 U.S.C. 361) is amended by striking the section heading and inserting the following:

''SEC. 801. OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS.''.

(d) ESTABLISHMENT OF HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—Section 801 of the Homeland Security Act of 2002 (6 U.S.C. 361), as amended by subsection (a), is further amended by adding at the end the following:

''(c) HOMELAND SECURITY INFORMATION CLEARINGHOUSE.—

''(1) ESTABLISHMENT.—There is established within the Office for State and Local Government Coordination and Preparedness a Homeland Security Information Clearinghouse (referred to in this section as the 'Clearinghouse'), which shall assist States, local governments, and emergency response providers in accordance with paragraphs (2) through (6).

''(2) HOMELAND SECURITY GRANT INFORMATION.—The Clearinghouse shall create a new website or enhance an existing website, establish a toll-free number, and produce a single publication that each contain information regarding the homeland security grant programs administered by the Department.

''(3) TECHNICAL ASSISTANCE.—The Clearinghouse, in consultation with the Interagency Committee established under section 802, shall provide information regarding technical assistance provided by any Federal agency to States and local governments relating to homeland security matters, including templates for conducting threat analyses and vulnerability assessments.

''(4) BEST PRACTICES.—The Clearinghouse shall work with States, local governments, emergency response providers, the National Domestic Preparedness Consortium, the National Memorial Institute for the Prevention of Terrorism, and private organizations to gather, validate, and disseminate information regarding successful State and local homeland security programs and practices.

''(5) USE OF FEDERAL FUNDS.—The Clearinghouse shall compile information regarding equipment, training, and other services that can be purchased with Federal funds provided under homeland security grant programs and make such information, and information regarding voluntary standards of training, equipment, and exercises, available to States, local governments, and emergency response providers.

''(6) OTHER INFORMATION.—The Clearinghouse shall provide States, local governments, and emergency response providers with any other information that the Secretary determines necessary.''.

SEC. 604. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS AND THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

''TITLE XVIII—ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS AND THREAT-BASED HOMELAND SECURITY GRANT PROGRAM

''SEC. 1801. DEFINITIONS.

''In this title, the following definitions shall apply:

''(1) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means—

''(A) any Indian tribe, as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)), that—

''(i) is located in the continental United States;

''(ii) operates a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services;

''(iii) is located—

''(I) on, or within 10 miles of, an international border or a coastline bordering an ocean or international waters;

''(II) within 5 miles of critical infrastructure or having critical infrastructure within its territory; or

''(III) within or contiguous to 1 of the 50 largest metropolitan statistical areas in the United States; and

''(iv) certifies to the Secretary that a State or eligible metropolitan region is not making funds distributed under this title available to the Indian tribe or consortium of Indian tribes for the purpose for which the Indian tribe or consortium of Indian tribes is seeking grant funds; and

''(B) a consortium of Indian tribes if each tribe satisfies the requirements of subparagraph (A).

''(2) ELIGIBLE METROPOLITAN REGION.—The term 'eligible metropolitan region' means the following:

''(A) IN GENERAL.—A combination of 2 or more incorporated municipalities, counties, parishes, or Indian tribes within a metropolitan region that includes the city in that metropolitan region with the largest population. Such eligible metropolitan region may include additional local governments outside the metropolitan region that are likely to be affected by, or be called upon to respond to, a terrorist attack or other catastrophic event within the metropolitan region.

''(B) OTHER COMBINATIONS.—Any other combination of contiguous local governments that are formally certified by the Secretary as an eligible metropolitan region for purposes of this title with the consent of the State or States in which such local governments are located.

''(3) ESSENTIAL CAPABILITIES.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to threatened or actual domestic terrorist attacks and other catastrophic events.

''(4) INDIAN TRIBE.—The term 'Indian tribe' means an entity described under section 2(10)(B).

''(5) METROPOLITAN REGION.—The term 'metropolitan region' means—

''(A) any of the 100 largest metropolitan statistical areas in the United States, as defined by the Office of Management and Budget; or

''(B) any combined statistical area, as defined by the Office of Management and Budget, of which any metropolitan statistical area covered by subparagraph (A) is a part.

''(6) POPULATION.—The term 'population' means population according to the most recent United States census population estimates available at the start of the relevant fiscal year.

''(7) POPULATION DENSITY.—The term 'population density' means population divided by land area in square miles.

''(8) SLIDING SCALE BASELINE ALLOCATION.—The term 'sliding scale baseline allocation' means 0.001 multiplied by the sum of—

''(A) the value of a State's population relative to that of the most populous of the 50 States of the United States, where the population of such States has been normalized to a maximum value of 100; and

''(B) one-fourth of the value of a State's population density relative to that of the most densely populated of the 50 States of the United States, where the population density of such States has been normalized to a maximum value of 100.

''(9) THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.—The term 'Threat-Based Homeland Security Grant Program' means the program established under section 1804.

''SEC. 1802. PRESERVATION OF PRE-9/11 GRANT PROGRAMS FOR TRADITIONAL FIRST RESPONDER MISSIONS.

''(a) IN GENERAL.—This title shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (b), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

''(b) PROGRAMS NOT AFFECTED.—The programs referred to in subsection (a) are the following:

''(1) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229) and programs under section 34 of that Act (15 U.S.C. 2229a).

''(2) All grant programs authorized under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), including the Emergency Management Performance Grant Program and the Urban Search and Rescue Grant program.

''(3) The Justice Assistance Grants authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.) (commonly known as the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs).

''(4) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

''(5) Grant programs under the Public Health Service Act regarding preparedness for bioterrorism and other public health emergencies and the Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

''SEC. 1803. ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.

''(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—

''(1) IN GENERAL.—Building upon the national preparedness guidance issued by the Secretary, the Secretary shall establish clearly defined essential capabilities for State and local governments, in consultation with—

''(A) the Task Force on Essential Capabilities for First Responders established under subsection (d);

''(B) the Under Secretaries for Emergency Preparedness and Response (including representatives of the United States Fire Administration), Border and Transportation Security, Information Analysis and Infrastructure Protection, and Science and Technology, and the Executive Director of the Office for State and Local Government Coordination and Preparedness;

''(C) the Secretary of Health and Human Services;

''(D) other appropriate Federal agencies;

''(E) State and local emergency response providers;

''(F) State and local officials; and

''(G) consensus-based standard making organizations responsible for setting standards relevant to the first responder community.

''(2) DEADLINES.—The Secretary shall—

''(A) establish essential capabilities under paragraph (1) within 30 days after receipt of the first report under subsection (d)(3); and

''(B) regularly update such essential capabilities as necessary, but not less than every 3 years.

''(3) PROVISION OF ESSENTIAL CAPABILITIES.—The Secretary shall ensure that a detailed description of the essential capabilities established under paragraph (1) is provided promptly to the States and to Congress. The States shall make the description of the essential capabilities available as appropriate to local governments within their jurisdictions.

''(b) OBJECTIVES.—The Secretary shall ensure that essential capabilities established under subsection (a)(1) meet the following objectives:

''(1) SPECIFICITY.—The determination of essential capabilities shall describe specifically the training, planning, personnel, and equipment that different types of communities in the Nation should possess, or to which they should have access, in order to meet the Department's goals for preparedness based upon—

''(A) the national preparedness goal, the target capabilities list, and the national preparedness guidance;

''(B) the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States;

''(C) the risks faced by different types of communities, including communities of various sizes, geographies, and other distinguishing characteristics; and

''(D) the principles of regional coordination and mutual aid among State and local governments.

''(2) FLEXIBILITY.—The establishment of essential capabilities shall be sufficiently flexible to allow State and local government officials to set priorities based on local or regional needs, while reaching nationally determined preparedness levels within a specified time period.

''(3) MEASURABILITY.—The establishment of essential capabilities shall be designed to enable measurement of progress toward specific terrorism preparedness goals.

''(4) COMPREHENSIVENESS.—The determination of essential capabilities shall be made within the context of a comprehensive State emergency management system.

''(c) FACTORS TO BE CONSIDERED.—In establishing essential capabilities for different types of communities under subsection (a)(1), the Secretary specifically shall consider the variables of threat, vulnerability, and consequences with respect to population (including transient commuting and tourist populations), areas of high population density, critical infrastructure, coastline, and international borders. Such consideration shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States and the needs described in the national preparedness guidance and the target capabilities list.

''(d) TASK FORCE ON ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—To assist the Secretary in establishing essential capabilities under subsection (a)(1), the Secretary shall establish an advisory body under section 871(a) not later than 60 days after the date of enactment of this section, which shall be known as the Task Force on Essential Capabilities for First Responders.

''(B) TERMINATION.—Notwithstanding section 871(b), the Task Force shall terminate 5 years after the date of its establishment, unless the Secretary makes a written determination to extend the Task Force to a specified date, which shall not be more than 5 years after the date on which such determination is made. The Secretary may make any number of subsequent extensions consistent with this subsection.

''(2) PUBLIC COMMENT.—Not later than 90 days after the date of enactment of this section, the Task Force shall solicit comment on the establishment of essential capabilities for State and local government preparedness.

''(3) REPORT.—

''(A) IN GENERAL.—Not later than 9 months after the establishment of the Task Force by the Secretary, and every 3 years thereafter, the Task Force shall submit to the Secretary a report on its recommendations for essential capabilities for preparedness for terrorism.

''(B) CONTENTS.—Each report shall—

''(i) provide a thorough assessment of the national preparedness guidance and target capabilities list and recommendations for revisions;

''(ii) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

''(iii) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain; and

''(iv) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment.

''(C) COMPREHENSIVENESS.—The Task Force shall ensure that, when recommending essential capabilities for terrorism preparedness, such recommendations are made within the context of a comprehensive State emergency management system.

''(4) MEMBERSHIP.—

''(A) IN GENERAL.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic and substantive cross section of first responder disciplines from the State and local government levels, including as appropriate—

''(i) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel;

''(ii) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

''(iii) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representatives from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

''(iv) State and local officials with expertise in terrorism preparedness and other emergency preparedness.

''(B) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate the selection with the Secretary of Health and Human Services.

''(C) EX OFFICIO MEMBERS.—The Secretary shall designate 1 or more officers of the Department to serve as ex officio members of the Task Force. One of the ex officio members from the Department shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.).

''(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of the Federal Advisory Committee Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

''SEC. 1804. THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—There is established the Threat-Based Homeland Security Grant Program, which includes—

''(A) formula-based grants for State and local programs administered by the Office of State and Local Government Coordination and Preparedness, including the State Homeland Security Grant Program, and the Law Enforcement Terrorism Prevention Program under section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714);

''(B) discretionary grants for State and local programs administered by the Office of State and Local Government Coordination and Preparedness for use in high-threat, high-density urban areas, including the Urban Area Security Initiative Program; and

''(C) any successor program to any program described in subparagraph (A) or (B).

''(2) GRANTS AUTHORIZED.—The Secretary may award grants to States and eligible metropolitan regions under the Threat-Based Homeland Security Grant Program to enhance homeland security.

''(3) RELATIONSHIP TO OTHER LAWS.—The Threat-Based Homeland Security Grant Program shall be deemed to satisfy the requirements of section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714). The allocation of grants authorized under this section shall be governed by the terms of this section and not by any other provision of law.

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Grants awarded under this section—

''(A) shall be used to address homeland security matters related to acts of terrorism or catastrophic events, related capacity building, or otherwise addressing shortfalls in essential capabilities; and

''(B) shall not be used to supplant ongoing emergency response expenses or general protective measures.

''(2) ALLOWABLE USES.—Grants awarded under this section may be used to achieve essential capabilities through—

''(A) developing State or regional plans or risk assessments (including the development of the homeland security plan under subsection (e)) to respond to terrorist attacks or other catastrophic events and community wide plans for responding to terrorist or catastrophic events that are coordinated with the capacities of applicable Federal, State, and local governments, emergency response providers, and State and local government health agencies;

''(B) developing State, regional, or local mutual aid agreements;

''(C) purchasing, upgrading, storing, or maintaining equipment based on State and local needs as identified under a State homeland security plan, consistent with essential capability needs;

''(D) conducting exercises to strengthen emergency preparedness of State and local first responders including law enforcement, firefighting personnel, and emergency medical service workers, and other emergency responders identified in a State homeland security plan;

''(E) paying for expenses relating to—

''(i) overtime regarding training activities consistent with the goals outlined in a State homeland security plan; and

''(ii) as determined by the Secretary, overtime activities relating to an increase in the threat level under the Homeland Security Advisory System;

''(F) promoting training relating to homeland security preparedness including—

''(i) emergency preparedness responses to a use or threatened use of a weapon of mass destruction; and

''(ii) training in the use of equipment, including detection, monitoring, and decontamination equipment, and personal protective gear;

''(G) conducting any activity permitted under the Law Enforcement Terrorism Prevention Grant Program under section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714); and

''(H) any other activity relating to achieving essential capabilities approved by the Secretary.

''(3) PROHIBITED USES.—Grants awarded under this section may not be used to construct buildings or other physical facilities, except those described in section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196) and approved by the Secretary in the homeland security plan certified under subsection (e), or to acquire land.

''(c) EQUIPMENT STANDARDS.—If an applicant for a grant under this section proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary under section 1807(a), the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

''(d) APPLICATION.—

''(1) STATES.—

''(A) SUBMISSION.—A State may apply for a grant under this section by submitting to the Secretary an application detailing how requested funds would be used to achieve essential capabilities and containing such other information the Secretary may reasonably require.

''(B) REVISIONS.—A State may revise a homeland security plan certified under subsection (e) at the time an application is submitted under subparagraph (A) after receiving approval from the Secretary.

''(C) APPROVAL.—The Secretary shall not award a grant under this section unless—

''(i) the State submitting the application has previously submitted a homeland security plan meeting the requirements of subsection (e); and

''(ii) the Secretary finds that the report submitted by the recipient under subsection (g) demonstrates significant progress toward achieving essential capabilities and meeting the goals in the homeland security plan of the State.

''(D) RELEASE OF FUNDS.—The Secretary shall release grant funds to States with approved plans after the approval of an application submitted under this paragraph.

''(2) ELIGIBLE METROPOLITAN REGIONS.—

''(A) SUBMISSION.—An eligible metropolitan region may apply for a grant under this section by submitting an application through the Governor of each State within which any part of the relevant metropolitan region is located.

''(B) CONTENTS.—An application under this paragraph shall include—

''(i) a description of how requested funds would be used to achieve essential capabilities;

''(ii) an explanation of how the proposed use of funds would be consistent with the homeland security plans of all relevant States;

''(iii) a geographic description of the eligible metropolitan region, including a list of all local governments participating in the application;

''(iv) an explanation of how the applicant intends to expend funds under the grant, to administer such funds, and to allocate such funds among the participating local governments;

''(v) if not all of the incorporated municipalities, counties, parishes, or Indian tribes in a metropolitan region are participating in the application, or if additional local governments outside the metropolitan region are participating, an explanation of why the eligible metropolitan region, as constituted, is an appropriate unit to receive grants to prevent, prepare for, and respond to acts of terrorism and other catastrophic events; and

''(vi) such other information the Secretary may reasonably require.

''(C) STATE REVIEW AND SUBMISSION.—

''(i) IN GENERAL.—To ensure consistency with State homeland security plans, an eligible metropolitan region or a directly eligible tribe applying for a grant under this paragraph shall submit its application to each State within which any part of the eligible metropolitan region or directly eligible tribe is located for review before submission of such application to the Secretary.

''(ii) DEADLINE.—Not later than 30 days after receiving an application from an eligible metropolitan region or directly eligible tribe, each such State shall transmit the application to the Secretary.

''(iii) STATE DISAGREEMENT.—If the Governor of any such State determines that a regional or tribal application is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, the Governor shall—

''(I) notify the Secretary, in writing, of that fact; and

''(II) provide an explanation of the reasons for not supporting the application at the time of transmission of the application.

''(e) HOMELAND SECURITY PLAN.—

''(1) IN GENERAL.—A State applying for a grant under this section shall have a 3-year State homeland security plan (referred to in this subsection as the 'plan') to respond to terrorist attacks and other catastrophic events that has been approved by the Secretary.

''(2) CONTENTS.—The plan shall contain—

''(A) a 3-year strategy to—

''(i) ensure that the funds allocated to local governments are used exclusively to meet the needs and capabilities described under paragraph (3)(C);

''(ii) provide for interoperable communications;

''(iii) provide for local coordination of response and recovery efforts, including procedures for effective incident command in conformance with the National Incident Management System;

''(iv) ensure that first responders and other emergency personnel have adequate training and appropriate equipment for the threats that may occur;

''(v) provide for improved coordination and collaboration among law enforcement, fire, and public health authorities at Federal, State, local, and tribal government levels;

''(vi) coordinate emergency response and public health plans;

''(vii) mitigate risks to critical infrastructure that may be vulnerable to terrorist attacks;

''(viii) promote regional coordination among contiguous local governments;

''(ix) identify necessary protective measures by private owners of critical infrastructure;

''(x) promote orderly evacuation procedures when necessary;

''(xi) ensure support from the public health community for measures needed to prevent, detect, and treat bioterrorism, and radiological and chemical incidents;

''(xii) increase the number of local jurisdictions participating in local and statewide exercises; and

''(xiii) meet preparedness goals as determined by the Secretary;

''(B) objective measures for assessing the extent to which the goals and objectives set forth in paragraph (A) have been achieved;

''(C) priorities for the allocation of funding to local governments based on the risk, capabilities, and needs described under paragraph (3)(C); and

''(D) a report from the relevant advisory committee established under paragraph (3)(D) that documents the areas of support, disagreement, or recommended changes to the plan before its submission to the Secretary.

''(3) DEVELOPMENT PROCESS.—

''(A) IN GENERAL.—In preparing the plan under this section, a State shall—

''(i) provide for the consideration of all homeland security needs;

''(ii) follow a process that is continuing, inclusive, cooperative, and comprehensive, as appropriate; and

''(iii) coordinate the development of the plan with the homeland security planning activities of local governments.

''(B) COORDINATION WITH LOCAL PLANNING ACTIVITIES.—The coordination under subparagraph (A)(iii) shall contain input from local stakeholders, including—

''(i) local officials, including representatives of rural, high-population, and high-threat jurisdictions and of Indian tribes;

''(ii) emergency response providers; and

''(iii) private sector companies that own or operate critical infrastructure.

''(C) SCOPE OF PLANNING.—Each State preparing a plan under this section shall, in conjunction with the local stakeholders under subparagraph (B), address all the information requested by the Secretary, and complete a comprehensive assessment of—

''(i) risk, including a—

''(I) vulnerability and consequence assessment;

''(II) threat assessment; and

''(III) public health assessment, in coordination with the State bioterrorism plan; and

''(ii) capabilities and needs, consistent with the essential capabilities established by the Secretary, including—

''(I) an evaluation of current preparedness, mitigation, and response capabilities based on such assessment mechanisms as shall be determined by the Secretary;

''(II) an evaluation of capabilities needed to address the risks described under clause (i); and

''(III) an assessment of the shortfall between the capabilities described under subclause (I) and the required capabilities described under subclause (II).

''(D) ADVISORY COMMITTEE.—

''(i) IN GENERAL.—Each State preparing a plan under this section shall establish an advisory committee to receive comments from the public and the local stakeholders identified under subparagraph (B).

''(ii) COMPOSITION.—

''(I) IN GENERAL.—The Advisory Committee shall include—

''(aa) local officials; and

''(bb) emergency response providers, which shall include representatives of the fire service, law enforcement, emergency medical response, and emergency managers.

''(II) GEOGRAPHIC REPRESENTATION.—The members of the Advisory Committee shall be a representative group of individuals from

the counties, cities, towns, and Indian tribes within the State, including representatives of rural, high-population, and high-threat jurisdictions.

''(4) PLAN APPROVAL.—The Secretary shall approve a plan upon finding that the plan meets the requirements of—

''(A) paragraphs (2) and (3); and

''(B) any other criteria the Secretary determines necessary to the approval of a State plan.

''(5) REVIEW OF ADVISORY COMMITTEE REPORT.—The Secretary shall review the recommendations of the advisory committee report incorporated into a plan under subsection (e)(2)(D), including any dissenting views submitted by advisory committee members, to ensure cooperation and coordination between State and local government jurisdictions in planning for the use of grant funds under this section.

''(f) ALLOCATION.—

''(1) SLIDING SCALE BASELINE DISTRIBUTION.—

''(A) STATES.—Each State whose application is approved under subsection (d) shall receive, for each fiscal year, the greater of—

''(i) 0.55 percent of the amounts appropriated for the Threat-Based Homeland Security Grant Program; or

''(ii) the State's sliding scale baseline allocation of 28.62 percent of the amounts appropriated for the Threat-Based Homeland Security Grant Program.

''(B) OTHER ENTITIES.—Notwithstanding subparagraph (A)—

''(i) the District of Columbia shall receive for each fiscal year 0.55 percent of the amounts appropriated for the Threat-Based Homeland Security Grant Program;

''(ii) the Commonwealth of Puerto Rico shall receive for each fiscal year 0.35 percent of the amounts appropriated for the Threat-Based Homeland Security Grant Program;

''(iii) American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands shall each receive 0.055 percent of the amounts appropriated for the Threat-Based Homeland Security Grant Program; and

''(iv) no possession of the United States shall receive a baseline distribution under subparagraph (A).

''(2) URBAN AREA SECURITY INITIATIVE DISTRIBUTION.—

''(A) DISTRIBUTION.—After the distribution under paragraph (1), the Secretary may allocate up to 50 percent of the funds remaining to provide grants to eligible metropolitan regions and directly eligible tribes.

''(B) CRITERIA.—

''(i) IN GENERAL.—The Secretary shall allocate the grants under this paragraph to assist eligible metropolitan regions and directly eligible tribes to achieve essential capabilities to effectively prevent, prepare for, and respond to acts of terrorism or other catastrophic events.

''(ii) PRIORITIZATION.—In prioritizing among the applications of eligible metropolitan regions and directly eligible tribes for such funds, the Secretary shall consider the relative threat, vulnerability, and consequences faced by an eligible metropolitan region or directly eligible tribe from a terrorist attack, including consideration of—

''(I) whether there has been a prior terrorist attack in the eligible metropolitan region or in the area in which the directly eligible tribe is located;

''(II) whether any part of the eligible metropolitan region or the area in which the directly eligible tribe is located has ever had a higher threat level under the Homeland Security Advisory System than the threat level for the United States as a whole;

''(III) the population of the eligible metropolitan region or directly eligible tribe, except that the Secretary shall not establish a minimum population requirement that would disqualify from consideration a locality that otherwise faces significant threats, vulnerabilities, or consequences from acts of terrorism;

''(IV) the population density of the eligible metropolitan region or the area in which the directly eligible tribe is located;

''(V) the degree of threat, vulnerability, and consequence to the eligible metropolitan region or directly eligible tribe related to critical infrastructure or key assets identified by the Secretary or State homeland security plan, including threats, vulnerabilities, and consequences from critical infrastructure in nearby jurisdictions;

''(VI) whether the eligible metropolitan region or the area in which the directly eligible tribe is located is at or near an international border;

''(VII) whether the eligible metropolitan region or the area in which the directly eligible tribe is located has a coastline bordering ocean or international waters;

''(VIII) threats, vulnerabilities, and consequences faced by the eligible metropolitan region or directly eligible tribe related to at-risk sites or activities in nearby jurisdictions, including the need to respond to terrorist attacks arising in those jurisdictions;

''(IX) the extent to which the eligible metropolitan region or directly eligible tribe has unmet essential capabilities;

''(X) the extent to which the application of the eligible metropolitan region includes all incorporated municipalities, counties, parishes, and Indian tribes within the relevant metropolitan region; and

''(XI) such other factors as are specified in writing by the Secretary.

''(C) DISTRIBUTION OF AWARDS TO METROPOLITAN REGIONS.—

''(i) IN GENERAL.—If the Secretary approves the application of an eligible metropolitan region for a grant under this section, the Secretary shall distribute the regional grant funds to the State or States in which the eligible metropolitan region is located.

''(ii) STATE DISTRIBUTION OF FUNDS.—Each State shall provide the eligible metropolitan region not less than 80 percent of the grant funds. Any funds retained by a State shall be expended on items or services approved by the Secretary and that benefit the eligible metropolitan region.

''(iii) MULTISTATE REGIONS.—If parts of an eligible metropolitan region awarded a grant are located in 2 or more States, the Secretary shall distribute to each such State a portion of the grant funds in proportion to that State's share of the population of the eligible metropolitan region, unless the Governors of each State (or in the case of the District of Columbia, the Mayor) agree otherwise.

''(D) DIRECTLY ELIGIBLE TRIBES.—

''(i) IN GENERAL.—Notwithstanding subsection (a)(2), the Secretary may award grants to directly eligible tribes under the Threat-Based Homeland Security Grant Program as part of the Urban Area Security Initiative Distribution.

''(ii) TRIBAL APPLICATIONS.—A directly eligible tribe may apply for a grant under this section by submitting an application to the Secretary that includes the information required for an application by an eligible region under clauses (i), (ii), (iii), (iv), and (vi) of subsection (d)(2)(B).

''(iii) DISTRIBUTION OF AWARDS TO DIRECTLY ELIGIBLE TRIBES.—If the Secretary approves the application of a directly eligible tribe for a grant under this section, the Secretary shall distribute the grant funds directly to the directly eligible tribe. The funds shall not be distributed to the State or States in which the directly eligible tribe is located.

''(iv) TRIBAL LIAISON.—A directly eligible tribe applying for a grant under this section shall designate a specific individual to serve as the tribal liaison who shall—

''(I) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

''(II) develop a process for receiving input from Federal, State, local, regional, and private officials to assist in the development of the application of such tribe and to improve the tribe's access to grants; and

''(III) administer, in consultation with State, local, regional, and private officials, grants awarded to such tribe.

''(v) TRIBES RECEIVING DIRECT GRANTS.—An Indian tribe that receives a grant directly under this section is eligible to receive funds for other purposes under a grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State, as described in subsection (e).

''(E) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to affect the existing authority of an Indian tribe that receives funds under this section.

''(3) THREAT-BASED DISTRIBUTION TO STATES.—

''(A) IN GENERAL.—After the distribution of funds under paragraphs (1) and (2), the Secretary shall, from the remaining funds for the Threat-Based Homeland Security Grant Program, distribute amounts to each State to assist that State in achieving essential capabilities to effectively prevent, prepare for, and respond to acts of terrorism and other catastrophic events.

''(B) PRIORITIZATION.—In prioritizing among State applications for such funds, the Secretary shall—

''(i) consider the relative threat, vulnerability, and consequences faced by a State from a terrorist attack, including consideration of—

''(I) whether there has been a prior terrorist attack in a metropolitan region that is wholly or partly in the State, or in the State itself;

''(II) whether any part of the State has ever had a higher threat level under the Homeland Security Advisory System than the threat level for the United States as a whole;

''(III) the percent of a State's population residing in metropolitan statistical areas, as defined by the Office of Management and Budget;

''(IV) the degree of threat, vulnerability, and consequence related to critical infrastructure or key assets identified by the Secretary or State homeland security plan;

''(V) whether the State has an international border;

''(VI) whether the State has a coastline bordering ocean or international waters;

''(VII) threats, vulnerabilities, and consequences faced by a State related to at-risk sites or activities in adjacent States, including the need to respond to terrorist attacks arising in adjacent States;

''(VIII) the extent to which the State has unmet essential capabilities; and

''(IX) such other factors as are specified in writing by the Secretary; and

''(ii) balance the goal of ensuring that the essential capabilities of the highest-risk areas are achieved quickly and the goal of ensuring that basic levels of preparedness, as measured by the attainment of essential capabilities, are achieved nationwide.

''(C) MULTI-STATE PARTNERSHIPS.—

''(i) IN GENERAL.—Instead of, or in addition to, any application for funds under subparagraph (A), 2 or more States may submit applications under this paragraph for multi-

State efforts to prevent, prepare for, or respond to acts of terrorism or other catastrophic events.

''(ii) GRANTEES.—Multi-State grants may be awarded to either—

''(I) an individual State acting on behalf of a consortium or partnership of States with the consent of all member States; or

''(II) a group of States applying as a consortium or partnership.

''(iii) ADMINISTRATION OF GRANT.—If a group of States apply as a consortium or partnership such States shall submit to the Secretary at the time of application a plan describing—

''(I) the division of responsibilities for administering the grant; and

''(II) the distribution of funding among the various States and entities that are party to the application.

''(4) FUNDING FOR LOCAL GOVERNMENTS AND FIRST RESPONDERS.—

''(A) IN GENERAL.—The Secretary shall require recipients of the sliding scale baseline distribution and the threat-based distribution to States to make available to local governments and emergency response providers, consistent with the applicable State homeland security plan, not less than 80 percent of the grant funds, the resources purchased with such grant funds, or a combination thereof, not later than 60 days after receiving grant funding.

''(B) INDIAN TRIBES.—States shall be responsible for allocating Federal resources to tribal communities in order to help those tribal communities achieve essential capabilities. Indian tribes shall be eligible for funding directly from the States, and shall not be required to seek funding from any local government.

''(C) EXCEPTION.—Subparagraph (A) shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands.

''(5) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this subsection shall be used to supplement and not supplant other State and local government public funds obligated for the purposes provided under this title.

''(6) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—

''(A) IN GENERAL.—The Secretary shall designate 25 percent of the amounts appropriated for the Threat-Based Homeland Security Grant Program to be used for the Law Enforcement Terrorism Prevention Program under section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714) to provide grants to law enforcement agencies to enhance capabilities for terrorism prevention.

''(B) USE OF FUNDS.—Notwithstanding subsection (b), grants awarded under this paragraph may be used for—

''(i) information sharing to preempt terrorist attacks;

''(ii) target hardening to reduce the vulnerability of selected high value targets;

''(iii) threat recognition to recognize the potential or development of a threat;

''(iv) intervention activities to interdict terrorists before they can execute a threat;

''(v) interoperable communication systems;

''(vi) overtime expenses related to the homeland security plan approved by the Secretary, including overtime costs associated with providing enhanced law enforcement operations in support of Federal agencies for increased border security and border crossing enforcement; and

''(vii) any other terrorism prevention activity authorized by the Secretary.

''(g) REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a grant under this section shall annually submit a report to the Secretary that contains—

''(1) an accounting of the amount of State and local government funds spent on homeland security activities under the applicable State homeland security plan;

''(2) information regarding the use of grant funds by the State and by units of local government as required by the Secretary; and

''(3) progress of the recipient and subgrantees in achieving essential capabilities.

''(h) ACCOUNTABILITY.—

''(1) GOVERNMENT ACCOUNTABILITY OFFICE ACCESS TO INFORMATION.—Each recipient of a grant under this section and the Department shall provide the Government Accountability Office with full access to information regarding the activities carried out under this section.

''(2) AUDIT.—Grant recipients that expend $500,000 or more in Federal funds during any fiscal year shall submit to the Secretary an organization wide financial and compliance audit report in conformance with the requirements of chapter 75 of title 31, United States Code.

''(i) REMEDIES FOR NON-COMPLIANCE.—

''(1) IN GENERAL.—If the Secretary finds, after reasonable notice and an opportunity for a hearing, that a recipient of a grant under this section has failed to substantially comply with any provision of this section, or with any regulations or guidelines of the Department regarding eligible expenditures, the Secretary shall—

''(A) terminate any payment of grant funds to be made to the recipient under this section;

''(B) reduce the amount of payment of grant funds to the recipient by an amount equal to the amount of grants funds that were not expended by the recipient in accordance with this section; or

''(C) limit the use of grant funds received under this section to programs, projects, or activities not affected by the failure to comply.

''(2) DURATION OF PENALTY.—The Secretary shall apply an appropriate penalty under paragraph (1) until such time as the Secretary determines that the grant recipient is in full compliance with this section or with applicable guidelines or regulations of the Department.

''(3) DIRECT FUNDING.—If a State fails to substantially comply with any provision of this section or with applicable guidelines or regulations of the Department, including failing to provide local governments with grant funds or resources purchased with grant funds in a timely fashion, a local government entitled to receive such grant funds or resources may petition the Secretary, at such time and in such manner as determined by the Secretary, to request that grant funds or resources be provided directly to the local government.

''(j) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to Congress that provides—

''(1) the status of preparedness goals and objectives;

''(2) an evaluation of how States and local governments are making progress in achieving essential capabilities;

''(3) the total amount of resources provided to the States;

''(4) the total amount of resources provided to local governments and metropolitan regions; and

''(5) an accounting of how these resources were expended.

''(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

''(1) $2,925,000,000 for fiscal year 2006;

''(2) $2,925,000,000 for fiscal year 2007; and

''(3) such sums as are necessary for each fiscal year thereafter.

''SEC. 1805. ELIMINATING HOMELAND SECURITY FRAUD, WASTE, AND ABUSE.

''(a) ANNUAL GOVERNMENT ACCOUNTABILITY OFFICE AUDIT AND REPORT.—

''(1) AUDIT.—The Comptroller General of the United States shall conduct an annual audit of the Threat-Based Homeland Security Grant Program.

''(2) REPORT.—The Comptroller General of the United States shall provide a report to Congress on the results of the audit conducted under paragraph (1), which includes—

''(A) an analysis of whether the grant recipients allocated funding consistent with the State homeland security plan and the guidelines established by the Department; and

''(B) the amount of funding devoted to overtime and administrative expenses.

''(b) REVIEWS OF THREAT-BASED HOMELAND SECURITY FUNDING.—The Secretary shall conduct periodic reviews of grants made through the Threat Based Homeland Security Grant Program to ensure that recipients allocate funds consistent with the guidelines established by the Department.

''SEC. 1806. FLEXIBILITY IN UNSPENT HOMELAND SECURITY FUNDS.

''(a) REALLOCATION OF FUNDS.—The Director of the Office for Domestic Preparedness shall allow any State to request approval to reallocate funds received pursuant to appropriations for the State Homeland Security Grant Program under Public Laws 10509277 (112 Stat. 2681 et seq.), 10609113 (113 Stat. 1501A093 et seq.), 10609553 (114 Stat. 2762A093 et seq.), 1070977 (115 Stat. 78 et seq.), or the Consolidated Appropriations Resolution of 2003 (Public Law 108097), among the 4 categories of equipment, training, exercises, and planning.

''(b) APPROVAL OF REALLOCATION REQUESTS.—The Director shall approve reallocation requests under subsection (a) in accordance with the State homeland security plan and any other relevant factors that the Secretary determines to be necessary.

''(c) LIMITATION.—A waiver under this section shall not affect the obligation of a State to make available 80 percent of the amount appropriated for equipment to units of local government.

''SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

''(a) EQUIPMENT STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology (including a representative of the United States Fire Administration) and the Executive Director of the Office for State and Local Government Coordination and Preparedness, shall support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1804(c).

''(2) STANDARDS.—Standards under this subsection shall—

''(A) be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

''(B) take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

''(C) be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

''(D) cover all appropriate uses of the equipment.

''(b) TRAINING STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology (including a representative of the United States Fire Administration) and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable.

''(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

''(1) the National Institute of Standards and Technology;

''(2) the National Fire Protection Association;

''(3) the American National Standards Institute;

''(4) the National Institute of Justice;

''(5) the National Institute for Occupational Safety and Health; and

''(6) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

''(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.

''SEC. 1808. CERTIFICATION RELATIVE TO THE SCREENING OF MUNICIPAL SOLID WASTE TRANSPORTED INTO THE UNITED STATES.

''(a) DEFINITION.—In this section, 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 section, the Bureau of Customs and Border Protection shall submit a report to Congress 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 such materials in other items of commerce entering into the United States by commercial motor vehicle transport; and

''(2) if the methodologies and technologies used to screen solid waste are less effective than those used to screen other commercial items, identifies the actions that the Bureau will take to achieve the same level of effectiveness in the screening of solid waste, including the need for additional screening technologies.

''(c) IMPACT ON COMMERCIAL MOTOR VEHICLES.—If the Bureau of Customs and Border Protection fails to fully implement the actions described in subsection (b)(2) before the earlier of 6 months after the date on which the report is due under subsection (b) or 6 months after the date on which such report is submitted, the Secretary shall deny entry into the United States of any commercial motor vehicle (as defined in section 31101(1) of title 49, United States Code) 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 such waste are as effective as the methodologies and technologies used by the Bureau to screen for such materials in other items of commerce entering into the United States by commercial motor vehicle transport.''.

(b) THREAT-BASED HOMELAND SECURITY GRANT PROGRAM.—

(1) FISCAL YEAR 2006 ADMINISTRATION.—Notwithstanding any provision of title III of this Act, section 1804 of the Homeland Security Act of 2002 (as added by this section) shall apply in the administration of the Threat-Based Homeland Security Grant Program established under section 1804 of that Act.

(2) FUNDING.—All funds appropriated under paragraphs (1) and (2) under the subheading ''STATE AND LOCAL PROGRAMS'' under the heading ''OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS'' under title III of this Act are appropriated for the Threat-Based Homeland Security Grant Program established under section 1804 of the Homeland Security Act of 2002 (as added by this section).

(c) FIRE SERVICES.—Section 2(6) of the Homeland Security Act of 2002 (6 U.S.C. 101(6)) is amended by inserting ''(including fire services)'' after ''local emergency public safety''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 note) is amended by adding at the end the following:

''TITLE XVIII—ESSENTIAL CAPABILITIES FOR FIRST RESPONDERS AND THREAT-BASED HOMELAND SECURITY GRANT PROGRAM

''Sec. 1801. Definitions.
''Sec. 1802. Preservation of pre-9/11 grant programs for traditional first responder missions.
''Sec. 1803. Essential capabilities for first responders.
''Sec. 1804. Threat-Based Homeland Security Grant Program.
''Sec. 1805. Eliminating homeland security fraud, waste, and abuse.
''Sec. 1806. Flexibility in unspent homeland security funds.
''Sec. 1807. National standards for first responder equipment and training.
''Sec. 1808. Certification relative to the screening of municipal solid waste transported into the United States.''.

SEC. 605. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—There is established in the Department of Homeland Security an International Border Community Interoperable Communications Demonstration Project (referred to in this section as ''demonstration projects'').

(2) MINIMUM NUMBER OF COMMUNITIES.—The Secretary of Homeland Security shall select no fewer than 6 communities to participate in a demonstration project.

(3) LOCATION OF COMMUNITIES.—No fewer than 3 of the communities selected under paragraph (2) shall be located on the northern border of the United States and no fewer than 3 of the communities selected under paragraph (2) shall be located on the southern border of the United States.

(b) PROGRAM REQUIREMENTS.—The demonstration projects shall—

(1) address the interoperable communications needs of police officers, firefighters, emergency medical technicians, National Guard, and other emergency response providers, as defined in the Homeland Security Act of 2002;

(2) foster interoperable communications—

(A) among Federal, State, local, and tribal government agencies in the United States involved in preventing or responding to terrorist attacks or other catastrophic events; and

(B) with similar agencies in Canada or Mexico;

(3) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(4) foster the standardization of interoperable communications equipment;

(5) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(6) ensure that emergency response providers can communicate with one another and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(7) provide training and equipment to enable emergency response providers to deal with threats and contingencies in a variety of environments; and

(8) identify and secure appropriate joint-use equipment to ensure communications access.

(c) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall distribute funds under this section to each community participating in a demonstration project under this section through the State or States in which each community is located.

(2) OTHER PARTICIPANTS .—A State receiving funds under this section shall make the funds available to the local governments and emergency response providers participating in a demonstration project selected by the Secretary of Homeland Security not later than 60 days after receiving funds.

(d) REPORTING.—Not later than December 31, 2005, and each year thereafter in which funds are appropriated for a demonstration project, the Secretary of Homeland Security shall provide 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 on the demonstration projects under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary in each of fiscal years 2006, 2007, and 2008 to carry out this section.

SA 1143. Mr. GREGG submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 15, strike ''For grants,'' down through and including ''protection plan grants.'' on page 79, line 6, and insert the following:

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,694,300,000, which shall be allocated as follows:

(1) $1,418,000,000 for State and local grants, of which $425,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for formula-based grants: Provided, That the balance shall be allocated by the Secretary of Homeland Security to States, urban areas, or regions based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to Homeland Security Presidential Directive 8 (HSPD–8).

(2) $400,000,000 for law enforcement terrorism prevention grants, of which $155,000,000 shall be allocated such that each State and territory shall receive the same dollar amount for the State minimum as was distributed in fiscal year 2005 for law enforcement terrorism prevention grants: Provided, That the balance shall be allocated by the Secretary to States based on risks; threats; vulnerabilities; and unmet essential capabilities pursuant to HSPD–8.

(3) $465,000,000 for discretionary transportation and infrastructure grants, as determined by the Secretary, which shall be based on risks, threats, and vulnerabilities, of which—

(A) $200,000,000 shall be for port security grants pursuant to the purposes of 46 United States Code 70107(a) through (h), which shall be awarded based on threat notwithstanding subsection (a), for eligible costs as defined in subsections (b)(2)–(4);

(B) $5,000,000 shall be for trucking industry security grants;

(C) $10,000,000 shall be for intercity bus security grants;

(D) $200,000,000 shall be for intercity passenger rail transportation (as defined in section 24102 of title 49, United States Code), freight rail, and transit security grants; and

(E) $50,000,000 shall be for buffer zone protection plan grants.

SA 1144. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) Notwithstanding any other provision of law (including any provision of title III), any grant from funds under the subheading ''STATE AND LOCAL PROGRAMS'' under the heading ''OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS'' under title III shall be awarded based strictly on an assessment of risk, threat, and vulnerability to our Nation's ports, critical infrastructure, financial centers, commercial centers, large centers of commuter populations, nationally significant tourist destinations, and areas of national significance determined by the Secretary of Homeland Security.

(b) This section shall not be construed to affect any authority to award grants under a Federal grant program described under subsection (a), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, emergency disaster relief, or public health missions.

SA 1145. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL FLIGHT DECK OFFICER PROGRAM. No funds appropriated or otherwise made available by this Act shall be used to enforce any policy requiring a Federal Flight Deck Officer to transport or store a firearm in a locked box or other container.

SA 1146. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL FLIGHT DECK OFFICERS.

(a) TRAINING AND REQUALIFICATION TRAINING.—Section 44921 (c) of title 49, United States Code, is amended by adding at the end the following:

''(3) LOCATION OF TRAINING—

''(A) STUDY.—The Secretary shall conduct a study of the feasibility of conducting Federal flight deck officer initial training at facilities located throughout the United States, including an analysis of any associated programmatic impacts to the Federal flight deck officer program.

''(B) REPORT.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall transmit to Congress a report on the results of the study.

''(4) DATES OF TRAINING.—The Secretary shall ensure that a pilot who is eligible to receive Federal flight deck officer training is offered, to the maximum extent practicable, a choice of training dates and is provided at least 30 days advance notice of the dates.

''(5) TRAVEL TO TRAINING FACILITIES.—The Secretary shall establish a program to improve travel access to Federal flight deck officer training facilities through the use of charter flights or improved scheduled air carrier service.

''(6) REQUALIFICATION AND RECURRENT TRAINING.—

''(A) STANDARDS.—The Secretary shall establish qualification standards for facilities where Federal flight deck officers can receive requalification and recurrent training.

''(B) LOCATIONS.—The Secretary shall provide for requalification and recurrent training at geographically diverse facilities, including Federal, State, and local law enforcement and government facilities, and private training facilities that meet the qualification standards established under subparagraph (A).

''(7) COSTS OF TRAINING.—

''(A) IN GENERAL.—The Secretary shall provide Federal flight deck officer training, requalification training, and recurrent training to eligible pilots at no cost to the pilots or the air carriers that employ the pilots.

''(B) TRANSPORTATION AND EXPENSES.—The Secretary may provide travel expenses to a pilot receiving Federal flight deck officer training, requalification training, or recurrent training.

''(8) COMMUNICATIONS.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall establish a secure means for personnel of the Transportation Security Administration to communicate with Federal flight deck officers, and for Federal flight deck officers to communicate with each other, in support of the mission of such officers. Such means of communication may include a secure Internet website.

''(9) ISSUANCE OF BADGES.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue badges to Federal flight deck officers.''.

(b) REVOCATION OF DEPUTIZATION OF PILOT AS FEDERAL FLIGHT DECK OFFICER.—Section 44921(d)(4) of title 49, United States Code, is amended to read as follows:

''(4) REVOCATION.—

''(A) ORDERS.—The Assistant Secretary of Homeland Security (Transportation Security Administration) may issue, for good cause, an order revoking the deputization of a Federal flight deck officer under this section. The order shall include the specific reasons for the revocation.

''(B) HEARINGS.—An individual who is adversely affected by an order of the Assistant Secretary under subparagraph (A) is entitled to a hearing on the record. When conducting a hearing under this section, the administrative law judge shall not be bound by findings of fact or interpretations of laws and regulations of the Assistant Secretary.

''(C) APPEALS.—An appeal from a decision of an administrative law judge as a result of a hearing under subparagraph (B) shall be made to the Secretary or the Secretary's designee.

''(D) JUDICIAL REVIEW OF A FINAL ORDER.—The determination and order of the Secretary revoking the deputization of a Federal flight deck officer under this section shall be final and conclusive unless the individual against whom such an order is issued files an application for judicial review under subchapter II of chapter 5 of title 5 (popularly known as the Administrative Procedure Act) within 60 days of entry of such order in the appropriate United States court of appeals.''.

(c) FEDERAL FLIGHT DECK OFFICER FIREARM CARRIAGE PILOT PROGRAM.—Section 44921(f) of title 49, United States Code, is amended by adding at the end the following:

''(4) PILOT PROGRAM.—

''(A) IN GENERAL.—Not later than 90 days after the date of enactment of this paragraph, the Secretary shall implement a pilot program to allow pilots participating in the Federal flight deck officer program to transport their firearms on their persons. The Secretary may prescribe any training, equipment, or procedures that the Secretary determines necessary to ensure safety and maximize weapon retention.

''(B) REVIEW.—Not later than I year after the date of initiation of the pilot program, the Secretary shall conduct a review of the safety record of the pilot program and transmit a report on the results of the review to Congress.

''(C) OPTION.—If the Secretary as part of the review under subparagraph (B) determines that the safety level obtained under the pilot program is comparable to the safety level determined under existing methods of pilots carrying firearms on aircraft, the Secretary shall allow all pilots participating in the Federal flight deck officer program the option of carrying their firearm on their person subject to such requirements as the Secretary determines appropriate.''.

(d) FEDERAL FLIGHT DECK OFFICERS ON INTERNATIONAL FLIGHTS.—

(1) AGREEMENTS WITH FOREIGN GOVERNMENTS.—The President is encouraged to pursue aggressively agreements with foreign governments to allow maximum deployment of Federal flight deck officers on international flights.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the President (or the President's designee) shall submit to Congress a report on the status of the President's efforts to allow maximum deployment of Federal flight deck officers on international flights.

(e) REFERENCES TO UNDER SECRETARY.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a) by striking ''Under Secretary of Transportation for Security'' and inserting ''Secretary of Homeland Security'';

(2) by striking ''Under Secretary'' each place it appears and inserting ''Secretary''; and (3) by striking ''Under Secretary's'' each place it appears and inserting ''Secretary's''.

SA 1147. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, line 12, after ''presence:'', insert the following: ''*Provided further*, That of the amount made available under this heading, an amount shall be available for the Transportation Security Administration to develop a plan to research, test, and potentially implement multi compartment bins to screen passenger belongings at security checkpoints: ''

SA 1148. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—RAIL SECURITY

SECTION __01. SHORT TITLE.

This title may be cited as the ''Rail Security Act of 2005''.

SEC. __02. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2006 for the purpose of carrying out this section.

SEC. __03. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. __04. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within 1 year after the date of enactment of the Rail Security Act of 2005, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. __05. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and **[**mail**]** cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2006.

SEC. __06. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. __07. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2006;
(B) $100,000,000 for fiscal year 2007;
(C) $100,000,000 for fiscal year 2008;
(D) $100,000,000 for fiscal year 2009; and
(E) $170,000,000 for fiscal year 2010.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2006;
(B) $10,000,000 for fiscal year 2007;
(C) $10,000,000 for fiscal year 2008;
(D) $10,000,000 for fiscal year 2009; and
(E) $17,000,000 for fiscal year 2010.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2006;
(B) $8,000,000 for fiscal year 2007;
(C) $8,000,000 for fiscal year 2008;
(D) $8,000,000 for fiscal year 2009; and
(E) $8,000,000 for fiscal year 2010.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2006, $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. __08. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''safety'' the first place it appears, and inserting ''safety, including security,''.

SEC. __09. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2005, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2006 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''Sec.
''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. __10. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL.—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation,

and, for capital projects, meet the requirements of section __07(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2006 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. __11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section __02, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(c) EQUITABLE ALLOCATION.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section __010(b).

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section __02 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. __12. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2005 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. __13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section __011(g));

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public; and

(6) other projects recommended in the report required by section __02.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2006 and 2007 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. __14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. _15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. 16. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. 17. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

''SEC. 20116. WHISTLEBLOWER PROTECTION FOR RAIL SECURITY MATTERS.

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security;

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

''Sec. 20116. Whistleblower protection for rail security matters.''.

SA 1149. Mr. MCCAIN (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE ON COMPREHENSIVE IMMIGRATION REFORM.

(a) FINDINGS.—Congress finds that—

(1) the Government of the United States has an obligation to its citizens to ensure the rule of law in its communities, secure its borders, and strengthen international border security efforts;

(2) current immigration laws and the enforcement of such laws are ineffective and do not serve the people of the United States, the national security interests of the United States, or the economic prosperity of the United States; and

(3) illegal immigration fosters other illegal activity, burdens States and local communities with hundreds of millions of dollars in uncompensated expenses and creates an underclass of workers who are vulnerable to fraud and exploitation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that, before the end of the first session of the 109th Congress, Congress should enact comprehensive immigration reform that—

(1) ensures strong enforcement of immigration laws and border security;

(2) provides for adequate legal channels for immigration;

(3) enables willing workers to be matched with willing employers when no United States worker is available to take the job;

(4) identifies undocumented immigrants and encourages them to come forward and participate legally in the economy of the United States; and

(5) serves the economic, social, and security interests of the United States.

SA 1150. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519.(a) The amount appropriated for salaries and expenses by title II under the heading ''CUSTOMS AND BORDER PROTECTION'' is increased by $179,221,000, all of which shall be made available to hire an additional 1,000 border patrol agents.

(b) The amount appropriated by title II for the United States Coast Guard for the Integrated Deepwater Systems program under the heading ''ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS'' is reduced by $179,221,000.

SA 1151. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 61, line 26, insert ''which shall be deployed between ports of entry along the southwestern border of the United States, taking into consideration the particular security risks in the area and the need for constant surveillance of such border,'' after ''unmanned aerial vehicles,''.

SA 1152. Mr. MCCAIN submitted an amendment intended to be proposed by

him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 64, line 24, insert after ''agencies'' the following: ''and Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))''.

On page 65, line 2, insert after ''agencies'' the following: ''and Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))''.

On page 77, lines 16 and 17, strike ''governments'' and insert ''governments and Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))''.

Beginning on page 77, line 26, strike ''or'' and all that follows through ''on risks'' on page 78, line 1, and insert ''regions, or Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) based on risks''.

On page 78, line 10, insert after ''States'' the following: ''or Indian tribes (as that term is defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))''.

SA 1153. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. Of the amount appropriated by title III for the Office of State and Local Government Coordination and Preparedness under the heading ''STATE AND LOCAL PROGRAMS'' and allocated for the technology transfer program, such sums as may be necessary shall be made available to the Secretary of Homeland Security to implement a plan to enhance communications integration and information sharing on border security as authorized under section 303 of the REAL ID Act of 2005 (division B of Public Law 109–13).

SA 1154. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. Not later than 30 days after the date of enactment of this Act, the United States Customs and Border Protection shall develop guidelines for other than full-time permanent Customs and Border Protection Officers to complete Customs and Border Protection Officer training at the Federal Law Enforcement Training Center. The guidelines shall take into account the special circumstances and needs of other than full-time permanent officers which includes the impact of the Customs and Border Protection Officer training requirement on their other employment and their ability to continue to serve as Customs and Border Protection Officers. The United States Customs and Border Protection should give consideration to extending the length of time for other than full-time permanent officers to complete the training, allowing officers to complete the training in nonconsecutive sessions, giving officers credit for training already completed, or providing for other appropriate arrangements.

SA 1155. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. SPENDING OVERSIGHT.

''None of the funds made available in this Act shall be used on silk plants, art consultants, art work, coffee, microwave ovens, ice makers, plaques, and private event planning companies.''

SA 1156. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. The amount appropriated by title III under the heading ''OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS'' for State and Local Programs is increased by $530,000,000, all of which shall be made available for discretionary transportation and infrastructure grants and shall be for port security grants pursuant to the purposes of section 70107 (a) through (h) of title 46, United States Code. Such amounts shall be in addition to the amounts otherwise made available by this Act for such purposes.

SA 1157. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . LETTERS OF INTENT.

(a) LETTERS OF INTENT.—Section 70107(e) of title 46, United States Code, is amended by adding at the end the following:

''(5) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to port sponsors from the Fund.''.

SA 1158. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

COMMISSION ON A STRATEGY FOR SUCCESS IN THE GLOBAL WAR ON TERRORISM

SEC. 519. (a) ESTABLISHMENT.—There is established a commission to be known as the Commission on a Strategy for Success in the Global War on Terrorism (in this section referred to as the ''Commission'').

(b) STUDY AND REPORT.—

(1) STUDY.—The duty of the Commission shall be to conduct a study on the strategy, tactics, and metrics for assessing performance and measuring success used by the United States in conduct of the Global War on Terrorism, and to submit a report on the findings of the study according to the guidance set forth in paragraph (2).

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on the study required by paragraph (1) that includes the following content:

(A) Recommendations for a set of benchmarks by which the United States can assess performance and measure success in the following areas:

(i) Reducing the capability of major world wide terrorist organizations for carrying out attacks against the United States and its interests.

(ii) Disrupting senior leadership of major world wide terrorist organizations.

(iii) Decreasing the ability of major world wide terrorist organizations to recruit new members.

(iv) Disrupting major world wide terrorist organizations' access to, movement of, and use of financial assets and key non-financial resources.

(v) Eliminating safe havens and training grounds for major world wide terrorist organizations.

(vi) Preventing terrorists from gaining access to nuclear materials and other weapons of mass destruction.

(vii) Enhancing the public image of the United States within the populations from which terrorists have most often originated.

(B) An assessment of performance and progress by the United States in winning Global War on Terrorism according to the benchmarks set forth by the Commission in accordance with subparagraph (A).

(C) An analysis of the annual country reports on terrorism produced by the Secretary of State in accordance with section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), including an assessment of the following:

(i) The effectiveness of the process by which the Secretary of State tabulates and categorizes terrorist attacks and events around the world.

(ii) The accuracy of the data reported in the reports.

(iii) The adequacy of safeguards against the influence of political considerations or other corrupting factors on the quality of data included in the reports.

(iv) Any recommendations the Commission may have for expanding, reconfiguring, or otherwise improving the reports.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members who are appointed not later than one month after the date of enactment of this act, as follows:

(A) Two co-chairpersons, of which—

(i) one co-chairperson shall be appointed by a committee consisting of the majority leaders of the Senate and the House of Representatives, and of the chairman of each of the appropriate congressional committees; and

(ii) one co-chairperson shall be appointed by a committee consisting of the minority leaders of the House and Senate, the ranking minority member of each of the appropriate congressional committees.

(B) Ten members appointed by the chairman and ranking minority members of the Committee on Foreign Relations, the Committee on Homeland Security and Government Affairs, and the Committee on Armed Services of the Senate.

(C) Ten members appointed by the chairmen and ranking minority members of the Committee on International Relations, the Committee on Homeland Security, and the Committee on Armed Services of the House of Representatives.

(2) QUALIFICATIONS.—Individuals appointed to the Commission should have proven experience or expertise in the prosecution of the Global War on Terrorism or in the study and analysis of terrorism, terrorists, United States military strategy, intelligence operations, or other relevant subject matter.

(3) VACANCIES.—Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

(4) CHAIRPERSONS.—The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

(5) PROHIBITION ON PAY.—Members of the Commission shall serve without pay.

(6) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(8) MEETINGS.—The Commission shall meet at the call of the chairpersons. The initial meeting of the Commission shall occur not later than two weeks after the date on which not less than six members are appointed. The Commission may select a temporary chairperson until such time as the co-chairpersons have been appointed.

(9) DIRECTOR AND STAFF.—

(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(B) STAFF.—The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(10) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

(11) POWERS.—

(A) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(B) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(C) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the chairpersons of the Commission, the head of that department or agency shall furnish that information to the Commission in a timely manner.

(D) POSTAL SERVICES.—The Commission may use the United States postal services in the same manner and under the same conditions as other departments and agencies of the United States.

(E) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(F) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(12) SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means the Committee on Foreign Relations, the Committee on Homeland Security and Government Affairs, and the Committee on Armed Services of the Senate and the Committee on International Relations, the Committee on Homeland Security, and the Committee on Armed Services of the House of Representatives.

(e) TERMINATION.—The Commission shall terminate one week following the submission of the report described in section (b)(2).

SA 1159. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ——. (a) FINDINGS.—Congress makes the following findings:

(1) Protecting the homeland against nuclear, radiological, biological, or chemical terrorism requires a layered defense drawing upon a full spectrum of capabilities and tools, beginning with a national strategy for an international and domestic effort to prevent the proliferation of weapons of mass destruction (WMD) before it affects Americans at home, as well as to harden America and manage the consequences of attacks while preserving fundamental liberties and economic activity.

(2) The National Strategy to Combat Weapons of Mass Destruction was published in December 2002.

(3) Since the development of the National Strategy—

(A) the nature of the weapons of mass destruction threats to the United States has evolved significantly;

(B) the understanding of likely future weapons of mass destruction threats has also progressed; and

(C) United States capabilities for detecting, preventing, and responding to weapons of mass destruction threats have also evolved.

(4) President George W. Bush enumerated in a speech on February 11, 2004, a number of new actions the United States would call for to address weaknesses in efforts to combat the proliferation of weapons of mass destnlction. Some of the most in July 11, 2005 important of these actions have not yet been undertaken or have met international resistance.

(5) Since the National Strategy ,vas developed, a significant intelligence failure has occurred with respect to the assessment of the weapons of mass destruction capabilities of Iraq, which failure has precipitated several efforts to identify systemic deficiencies in intelligence and identify recommended improvements.

(6) As required by the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), and as recommended by the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, President George W. Bush announced in June 2005 the intent to establish a National Counter Proliferation Center (NCPC). The Center will exercise strategic oversight of the work of the intelligence community on threats posed by the proliferation of weapons of mass destruction and will playa unique leading role within the United States Government in addressing such threats.

(7) A number of other significant changes to United States policies, capabilities, and tools to combat the proliferation of weapons of mass destruction have been recommended, and in some cases, implemented since December 2002, in the absence of an updated national strategy on combatting the proliferation of weapons of mass destruction.

(b) UPDATE OF NATIONAL STRATEGY TO COMBAT WEAPONS OF MASS DESTRUCTION.—(1) Not later than 6 months after the date of the enactment of this Act, the President shall develop and submit to Congress an update to the National Strategy to Combat Weapons of Mass Destruction of December 2002.

(2) The update of the National Strategy shall take into account developments since the publication of the National Strategy.

(3) The update of the National Strategy shall include the following:

(A) INTELLIGENCE-BASED ASSESSMENT.—An intelligence-based assessment of the threat to United States territory, citizens, and interests from the proliferation of weapons of mass destruction and the threat of terrorist acquisition and use of weapons of mass destruction.

(B) OBJECTIVES.—A review of the objectives of United States policy, both domestically and internationally, regarding the proliferation of weapons of mass destruction and the threat of terrorist acquisition and use of weapons of mass destruction.

(C) CAPABILITIES, ROLES, MISSIONS, CONCEPTS OF OPERATIONS.—A review of the full spectrum of capabilities necessary, whether domestically or internationally, to address the proliferation of weapons of mass destruction and the threat of terrorist acquisition and use of weapons of mass destruction, and a description of the roles, missions, and concepts of operations for each of the organizations and programs responsible for providing such capabilities.

(D) POLICY, PROGRAM AND OPERATIONAL COORDINATION.—A review of the mechanisms for planning, coordinating, and implementing policy, programs, and operations, including government-wide strategic operational planning, across all agencies and entities undertaking work to combat the proliferation of weapons of mass destruction and to protect the homeland against weapons of mass destruction attacks.

(4) The update of the National Strategy shall address specific areas key to a successful national strategy to combat the proliferation of weapons of mass destruction, including, but not limited to the following:

(A) NATIONAL COUNTER PROLIFERATION CENTER.—A description of the roles, missions,

and concepts of operations for the National Counter Proliferation Center, including a plan and schedule for establishing the Center and developing it to full working capacity.

(B) INTERNATIONAL NONPROLIFERATION REGIMES.—A review of how the United States will seek to strengthen the international nonproliferation regimes, including, but not limited to, the Nuclear Nonproliferation Treaty and associated entities (such as the Nuclear Suppliers Group) in the wake of the 2005 Nuclear Nonproliferation Treaty review conference, the Missile Technology Control Regime, the Biological Weapons Convention, and the Chemical Weapons Convention and associated entities (such as the Australia Group).

(C) SECURITY OF NUCLEAR MATERIALS.—A review of how the United States will enhance programs to secure weapons-grade nuclear materials globally.

(D) DETECTION AND CHARACTERIZATION CAPABILITIES.—A review of how the United States will improve the array of weapons of mass destruction detection devices to ensure the homeland is protected from any means by which weapons of mass destruction could be delivered against the United States.

(E) INTERDICTION CAPABILITIES.—An assessment of the ability of the United States and the international community to interdict in transit illicit materials and personnel related to weapons of mass destruction, including—

(i) an assessment of the number and impact of interdictions under the Proliferation Security Initiative; and

(ii) an assessment of how the Initiative can be strengthened to achieve more concrete results.

(F) NUCLEAR INSPECTIONS AND SAFEGUARDS.—A review of how the United States will strengthen the ability of the International Atomic Energy Agency (IAEA) to monitor peaceful nuclear energy programs to ensure that such programs are not used as a cover for nuclear weapons development, including, but not limited to—

(i) how the United States will encourage the adoption and ratification by each nonnuclear weapon state of the Model Additional Protocol with the Agency; and

(ii) how the Executive Branch will implement the United States Additional Protocol with the Agency in light of its inability, thus far, to reach agreement on implementing legislation that would permit United States ratification of the Additional Protocol to which the United States Senate gave its advice and consent to ratification on March 31, 2004.

(G) INTELLIGENCE CAPABILITIES.—A plan for the implementation of intelligence reforms intended to improve intelligence capabilities relating to weapons of mass destruction.

(H) NORTH KOREA AND IRAN.—A plan for each of the following:

(i) Preventing further processing of nuclear weapons material in North Korea and ultimately verifiably eliminating the nuclear weapons programs of North Korea.

(ii) Preventing Iran from developing nuclear weapons.

(iii) Deterring other nations from pursuing nuclear weapons.

(5) The update required by paragraph (1) shall be submitted to Congress in unclassified form but may include a classified annex.

SA 1160. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) Congress makes the following findings:

(1) The Homeland Security Advisory System had been raised to threat level Code Orange, a level which indicates a high risk of terrorist attack, on six occasions since the Advisory System was created in March 2002, prior to the rasing of the threat level to Code Orange following the bombings that occurred in London on July 7, 2005.

(2) The Code Orange threat level remained in place for an average of 13 days on each of the first five occasions that it was raised to that level.

(3) The sixth elevation of the threat level to Code Orange occurred in August 2004 and ended 98 days later, making it four times longer than any other such alert and constituting half of the days that the United States has been under a high risk of terrorist attack.

(4) The Conference of Mayors estimates that cities in the United States spend some $70,000,000 per week to implement security measures associated with the Code Orange threat level.

(5) The recommendation to elevate the threat level is made by the Homeland Security Council, a group of Cabinet officials and senior advisors to the President and Vice President, (in this section referred to as the ''Council'').

(6) In May 2005, Secretary of Homeland Security Tom Ridge revealed that there was often considerable disagreement among the members of the Council as to whether or not the threat level should be raised.

(7) There remains considerable confusion among the public and State and local government officials as to the decision-making process and criteria used by the Council in deciding whether the threat level should be raised to Code Orange.

(b) Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study examining the six occasions in which the Homeland Security Advisory System was raised to Code Orange prior to July 2005 and submit to Congress a report on such study.

(c) The report required by subsection (b) shall include an explanation and analysis of the decision-making process used by the Council to raise the threat level to Code Orange in each of the six instances prior to July 2005, including—

(1) the criteria and standards used by the Council in reaching its decision;

(2) a description of deliberations and votes of the Council were conducted, and whether any of the deliberations and votes have been transcribed or were otherwise recorded in some manner;

(3) a description of the specific intelligence that led to the decision to raise the threat level to Code Orange on each of the six occasions, and what, if any, common factors or trends in the intelligence reporting were present in each of the previous decisions;

(4) an explanation for the decision, on the sixth occasion, for the threat level to remain elevated for 98 days, and what role, if any, staff of the White House played in the decision to raise the level on that occasion;

(5) a description of the direct and indirect costs incurred by cities, States, or the Federal Government after the threat level was raised to Code Orange on each of the six occasions; and

(6) the recommendations of the Comptroller General of the United States, if any, for improving the Homeland Security Advisory System, including recommendations regarding—

(A) measures that could be carried out to build greater public awareness and confidence in the work of the Council;

(B) whether the Council and the Secretary of Homeland Security could benefit from greater transparency and the development of more clearly articulated public standards in the threat level decision-making process;

(C) whether the current composition of the Council should be modified to include representatives from the States; and

(D) the measures that could be carried out to minimize the costs to States and municipalities during periods when the Homeland Security Advisory System is raised to level to Code Orange.

(d) The report required by subsection (b) shall be submitted in an unclassified form and may include a classified annex, if necessary.

SA 1161. Mr. REID (for himself, Mr. BIDEN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) FINDINGS.—The Senate makes the following findings:

(1) The Joint Explanatory Statement to accompany the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 1090913) requires the Department of Defense to set forth in a report to Congress a comprehensive set of performance indicators and measures for progress toward military and political stability in Iraq.

(2) The report requires performance standards and goals for security, economic, and security force training objectives in Iraq together with a notional timetable for achieving these goals.

(3) In specific, the report required, at a minimum, the following:

(A) With respect to stability and security in Iraq, the following:

(i) Key measures of political stability, including the important political milestones that must be achieved over the next several years.

(ii) The primary indicators of a stable security environment in Iraq, such as number of engagements per day, numbers of trained Iraqi forces, and trends relating to numbers and types of ethnic and religious-based hostile encounters.

(iii) An assessment of the estimated strength of the insurgency in Iraq and the extent to which it is composed of non-Iraqi fighters.

(iv) A description of all militias operating in Iraq, including the number, size, equipment strength, military effectiveness, sources of support, legal status, and efforts to disarm or reintegrate each militia.

(v) Key indicators of economic activity that should be considered the most important for determining the prospects of stability in Iraq, including—

(I) unemployment levels;

(II) electricity, water, and oil production rates; and

(III) hunger and poverty levels.

(vi) The criteria the Administration will use to determine when it is safe to begin withdrawing United States forces from Iraq.

(B) With respect to the training and performance of security forces in Iraq, the following:

(i) The training provided Iraqi military and other Ministry of Defense forces and the equipment used by such forces.

(ii) Key criteria for assessing the capabilities and readiness of the Iraqi military and other Ministry of Defense forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping these forces), and the milestones and notional timetable for achieving these goals.

(iii) The operational readiness status of the Iraqi military forces, including the type, number, size, and organizational structure of Iraqi battalions that are—

(I) capable of conducting counterinsurgency operations independently;

(II) capable of conducting counterinsurgency operations with the support of United States or coalition forces; or

(III) not ready to conduct counterinsurgency operations.

(iv) The rates of absenteeism in the Iraqi military forces and the extent to which insurgents have infiltrated such forces.

(v) The training provided Iraqi police and other Ministry of Interior forces and the equipment used by such forces.

(vi) Key criteria for assessing the capabilities and readiness of the Iraqi police and other Ministry of Interior forces, goals for achieving certain capability and readiness levels (as well as for recruiting, training, and equipping), and the milestones and notional timetable for achieving these goals, including—

(I) the number of police recruits that have received classroom training and the duration of such instruction;

(II) the number of veteran police officers who have received classroom instruction and the duration of such instruction;

(III) the number of police candidates screened by the Iraqi Police Screening Service, the number of candidates derived from other entry procedures, and the success rates of those groups of candidates;

(IV) the number of Iraqi police forces who have received field training by international police trainers and the duration of such instruction; and

(V) attrition rates and measures of absenteeism and infiltration by insurgents.

(vii) The estimated total number of Iraqi battalions needed for the Iraqi security forces to perform duties now being undertaken by coalition forces, including defending the borders of Iraq and providing adequate levels of law and order throughout Iraq.

(viii) The effectiveness of the Iraqi military and police officer cadres and the chain of command.

(ix) The number of United States and coalition advisors needed to support the Iraqi security forces and associated ministries.

(x) An assessment, in a classified annex if necessary, of United States military requirements, including planned force rotations, through the end of calendar year 2006.

(3) The deadline for submittal of the report to Congress was 60 days after the date of the enactment of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, that is July 11, 2005, and every 90 days thereafter through the end of fiscal year 2006.

(4) The report has not yet been received by Congress.

(5) The availability of accurate data on key performance indicators is critical to understanding whether the United States strategy in Iraq is succeeding, and the substantial resources provided by Congress, which total more than $200,000,000,000 and an approximate monthly expenditure of $5,000,000,000, with substantial resource expenditures still to come, are being utilized effectively.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the information requested in the report described by subsection (a) is critical—

(A) to fulfilling the oversight obligations of Congress;

(B) to ensuring the success of United States strategy in Iraq;

(C) to maximizing the effectiveness of the substantial resources provided by Congress and the American people for United States efforts in Iraq;

(D) to identifying when the Iraqi security forces will be able to assume responsibility for security in Iraq; and

(E) to obtaining an estimate of the level of United States troops that will be necessary in Iraq during 2005 and 2006, and in any years thereafter;

(2) the report should be provided by the Department of Defense, as required by the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 as soon as possible; and

(3) the Secretary of Defense should communicate to Congress and the American people why the report was not submitted to Congress by the original deadline for its submittal.

SA 1162. Mr. KERRY (for himself and Mr. LAUTENBERG) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. Within 90 days after the date of enactment of this Act, the Department of Homeland Security's Office of Inspector General shall issue a report to the House and Senate Committees on Appropriations, the House and Senate Committees on Homeland Security, and the Senate Committee on Commerce, Science, and Transportation regarding the steps the Department has taken to comply with the recommendations of the Inspector General's Report on the Port Security Grant Program (OIG–05–10).

SA 1163. Mrs. FEINSTEIN (for herself and Mr. SESSIONS) submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FRAUDULENT USE OF PASSPORTS.

(a) CRIMINAL CODE.—

(1) SECRETARY OF HOMELAND SECURITY.—Section 1546 of title 18, United States Code, is amended by striking ''the Attorney General or the Commissioner of the Immigration and Naturalization Service'' each place it appears and inserting ''the Secretary of Homeland Security''.

(2) DEFINITION OF PASSPORT.—Chapter 75 of title 18, United States Code, is amended by adding at the end the following:

''§1A1548. Definition

''For the purposes of sections 1543 and 1544, the term 'passport' means any passport or travel document issued by the United States, a foreign government, or an international organization.''.

(3) CLERICAL AMENDMENT.—The table of sections for chapter 75 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 1548. Definition.''.

(b) IMMIGRATION AND NATIONALITY ACT.—Section 101(a)(43)(P) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)(P)) is amended to read as follows:

''(P) an offense described in—

''(i) section 1542, 1543, or 1544 of title 18, United States Code, relating to false statements in the application, forgery, or misuse of a passport or travel document;

''(ii) section 1546(a) of title 18, United States Code, relating to the fraudulent use of any document used to gain entry or admission into the United States, regardless of the term of imprisonment; or

''(iii) section 1546(a) of title 18, United States Code, relating to any other fraudulent use of documents not described in clause (ii), including as evidence of authorized stay or employment, for which the term of imprisonment is at least 12 months.''.

SA 1164. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 18, strike ''$2,694,300,000'' and insert ''$11,552,000,000''.

On page 81, line 24, strike ''$615,000,000'' and insert ''$4,000,000,000''.

On page 81, line 24, strike ''$550,000,000'' and insert ''$3,000,000,000''.

On page 81, line 26, strike ''$65,000,000'' and insert ''$1,000,000,000''.

On page 82, line 12, strike ''$180,000,000'' and insert ''$660,000,000''.

On page 89, line 3, strike ''$194,000,000'' and insert ''$690,994,000''.

On page 100, between lines 11 and 12, insert the following:

SEC. 519. The total amount appropriated by title III for the Office of the Under Secretary for Emergency Preparedness and Response under the headings ''PREPAREDNESS, MITIGATION, RESPONSE, AND RECOVERY (INCLUDING RECESSION OF FUNDS)'', ''ADMINISTRATIVE AND REGIONAL OPERATIONS'', and ''PUBLIC HEALTH PROGRAMS'' is increased by $2,845,766,000.

SEC. 520. The Secretary of the Treasury shall take such action as is necessary to reduce benefits provided by the Economic Growth and Tax Relief Reconciliation Act of 2001 to individuals with an adjusted gross income of $1,000,000,000 or more that will result in an increase in revenue sufficient to offset the increased funding provided for the first responder and other programs made by section 518, this section, and any related increases in funding.

SA 1165. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 56, line 19, strike ''$124,620,000'' and insert ''$115,160,000''.

On page 57, line 1, strike ''$146,322,000'' and insert ''$135,572,000''.

On page 57, line 17, strike ''$18,325,000'' and insert ''$17,035,000''.

On page 57, line 22, strike ''$286,540,000'' and insert ''$265,040,000''.

On page 77, line 18, strike ''$2,694,300,000'' and insert ''2,737,300,000''.

On page 79, line 22, strike the colon and insert a period.

On page 79, between lines 22 and 23, insert the following:

(7) $44,000,000 for interoperable communications equipment grants:

SA 1166. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 20, strike ''purposes.'' and insert the following: ''purposes: *Provided further*, That MidAmerica St. Louis Airport in Mascoutah, Illinois, shall be designated as a port of entry.''.

SA 1167. Mr. GRASSLEY (for himself and Mr. HATCH) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 88, line 13, strike the period at the end and insert '', of which $2,500,000 shall be available until expended to carry out section 402(d)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note).''.

SA 1168. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. AMENDMENT TO TITLE 18.

(a) IN GENERAL.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''§ 1A39. Violation of Washington, D.C. airspace

''Whoever negligently flies an aircraft in a manner that violates the Washington, D.C. Metropolitan Area Flight Restricted Zone (as defined by the Federal Aviation Administration) and causes the evacuation a Federal building or any other public property shall be subject to a fine of $100,000, confiscation of the aircraft, and loss of the right to fly in United States airspace for 5 years.''.

(b) CHAPTER ANALYSIS.—The table of sections for chapter 2 of title 18, United States Code, is amended by adding at the end the following:

''Sec. 39. Violation of Washington, D.C. airspace.''.

SA 1169. Mr. HAGEL submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, line 2, strike ''$4,452,318,000'' and insert ''$4,440,318,000''.

On page 70, line 24, strike ''$36,000,000'' and insert ''$48,000,000''.

SA 1170. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. The amount appropriated for salaries and expenses by title II under the heading ''IMMIGRATION AND CUSTOMS ENFORCEMENT'' is increased by $61,666,500, all of which shall be made available to hire and train an additional 500 full-time active duty Immigration and Cuistoms Enforcement investigators.

SA 1171. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519.(a) The amount appropriated for salaries and expenses by title II under the heading ''IMMIGRATION AND CUSTOMS ENFORCEMENT'' is increased by $198,000,000, all of which shall be made available to add an additional 5,760 detention beds in the United States.

(b) The amount appropriated by title II for the United States Coast Guard for the Integrated Deepwater Systems program under the heading ''ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS'' is reduced by $198,000,000.

SA 1172. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall designate the Natrona International Airport in Casper, Wyoming, as an airport at which private aircraft described in subsection (b) may land for processing by the United States Customs and Border Protection in accordance with section 122.24(b) of title 19, Code of Federal Regulations, and such airport shall not be treated as a user fee airport for purposes of section 122.15 of title 19, Code of Federal Regulations.

(b) PRIVATE AIRCRAFT.—Private aircraft described in this subsection are private aircraft that—

(1) arrive in the United States from a foreign area and have a final destination in the United States of Natrona International Airport in Casper, Wyoming; and

(2) would otherwise be required to land for processing by the United States Customs and Border Protection at an airport listed in section 122.24(b) of title 19, Code of Federal Regulations, in accordance with such section.

(c) DEFINITION.—In this section, the term ''private aircraft'' has the meaning given such term in section 122.23(a)(1) of title 19, Code of Federal Regulations.

SA 1173. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. It is the Sense of the Senate that the Director of the Office for State and Local Government Coordination of the Department of Homeland Security should coordinate with the American Red Cross in developing a mass care plan for the areas of the United States most at risk of being the target of a terrorist attack.

SA 1174. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 24, after ''formula-based grants'' insert the following: ''and $50,000,000 shall be allocated to the American Red Cross for use in its mass care catastrophic planning initiative''

SA 1175. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. Not later than 60 days after the date of the enactment of this Act, the Secretary of Homeland Security shall designate an airport in each State as a port of entry.

SA 1176. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, between lines 5 and 6, insert the following:

PILOT PROGRAM FOR GROUND SURVEILLANCE TECHNOLOGY AND BORDER SECURITY

Of the amounts appropriated under this title, such amounts as may be necessary shall be made available to carry out the pilot program for ground surveillance technology and border security authorized by section 302 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 8 U.S.C. 1712 note).

SA 1177. Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE—BORDER ENFORCEMENT AND VISA SECURITY

SEC. __01. DOCUMENT AND VISA REQUIREMENTS.

(a) IN GENERAL.—Section 221(a) of the Immigration and Nationality Act (8 U.S.C. 1201(a)) is amended by adding at the end the following:

''(3) VISAS AND IMMIGRATION RELATED DOCUMENT REQUIREMENTS.—

''(A) Visas issued by the Secretary of State and immigration related documents issued by the Secretary of State or the Secretary of Homeland Security shall comply with authentication and biometric standards recognized by domestic and international standards organizations.

''(B) Such visas and documents shall—

''(i) be machine-readable and tamper-resistant;

''(ii) use biometric identifiers that are consistent with the requirements of section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732), and represent the benefits and status set forth in such section;

''(iii) comply with the biometric and document identifying standards established by the International Civil Aviation Organization; and

''(iv) be compatible with the United States Visitor and Immigrant Status Indicator Technology and the employment verification system established under section 274E.

''(C) The information contained on the visas or immigration related documents described in subparagraph (B) shall include—

''(i) the alien's name, date and place of birth, alien registration or visa number, and, if applicable, social security number;

''(ii) the alien's citizenship and immigration status in the United States; and

''(iii) the date that such alien's authorization to work in the United States expires, if appropriate.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 26, 2007.

SEC. __02. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—Chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) is amended by inserting after section 274D the following:

''EMPLOYMENT ELIGIBILITY

''SEC. 274E. (a) EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—

''(1) IN GENERAL.—The Commissioner of Social Security, in consultation and coordination with the Secretary of Homeland Security, shall establish an Employment Eligibility Confirmation System (referred to in this section as the 'System') through which the Commissioner responds to inquiries made by employers who have hired individuals concerning each individual's identity and employment authorization.

''(2) MAINTENANCE OF RECORDS.—The Commissioner shall electronically maintain records by which compliance under the System may be verified.

''(3) OBJECTIVES OF THE SYSTEM.—The System shall—

''(A) facilitate the eventual transition for all businesses from the employer verification system established in section 274A with the System;

''(B) utilize, as a central feature of the System, machine-readable documents that contain encrypted electronic information to verify employment eligibility; and

''(C) provide for the evidence of employment required under section 218A.

''(4) INITIAL RESPONSE.—The System shall provide—

''(A) confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility not later than 3 working days after the initial inquiry; and

''(B) an appropriate code indicating such confirmation or tentative nonconfirmation.

''(5) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—

''(A) ESTABLISHMENT.—For cases of tentative nonconfirmation, the Commissioner of Social Security, in consultation and coordination with the Secretary of Homeland Security, shall establish a secondary verification process. The employer shall make the secondary verification inquiry not later than 10 days after receiving a tentative nonconfirmation.

''(B) DISCREPANCIES.—If an employee chooses to contest a secondary nonconfirmation, the employer shall provide the employee with a referral letter and instruct the employee to visit an office of the Department of Homeland Security or the Social Security Administration to resolve the discrepancy not later than 10 working days after the receipt of such referral letter in order to obtain confirmation.

''(C) FAILURE TO CONTEST.—An individual's failure to contest a confirmation shall not constitute knowledge (as defined in section 274a.1(l) of title 8, Code of Federal Regulations.

''(6) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed, implemented, and operated—

''(A) to maximize its reliability and ease of use consistent with protecting the privacy and security of the underlying information through technical and physical safeguards;

''(B) to allow employers to verify that a newly hired individual is authorized to be employed;

''(C) to permit individuals to—

''(i) view their own records in order to ensure the accuracy of such records; and

''(ii) contact the appropriate agency to correct any errors through an expedited process established by the Commissioner of Social Security, in consultation and coordination with the Secretary of Homeland Security; and

''(D) to prevent discrimination based on national origin or citizenship status under section 274B.

''(7) UNLAWFUL USES OF SYSTEM.—It shall be an unlawful immigration-related employment practice—

''(A) for employers or other third parties to use the System selectively or without authorization;

''(B) to use the System prior to an offer of employment;

''(C) to use the System to exclude certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants;

''(D) to use the System to deny certain employment benefits, otherwise interfere with the labor rights of employees, or any other unlawful employment practice; or

''(E) to take adverse action against any person, including terminating or suspending an employee who has received a tentative nonconfirmation.

''(b) EMPLOYMENT ELIGIBILITY DATABASE.—

''(1) REQUIREMENT.—The Commissioner of Social Security, in consultation and coordination with the Secretary of Homeland Security and other appropriate agencies, shall design, implement, and maintain an Employment Eligibility Database (referred to in this section as the 'Database') as described in this subsection.

''(2) DATA.—The Database shall include, for each individual who is not a citizen or national of the United States, but is authorized or seeking authorization to be employed in the United States, the individual's—

''(A) country of origin;

''(B) immigration status;

''(C) employment eligibility;

''(D) occupation;

''(E) metropolitan statistical area of employment;

''(F) annual compensation paid;

''(G) period of employment eligibility;

''(H) employment commencement date; and

''(I) employment termination date.

''(3) REVERIFICATION OF EMPLOYMENT ELIGIBILITY.—The Commissioner of Social Security shall prescribe, by regulation, a system to annually reverify the employment eligibility of each individual described in this section—

''(A) by utilizing the machine-readable documents described in section 221(a)(3); or

''(B) if machine-readable documents are not available, by telephonic or electronic communication.

''(4) CONFIDENTIALITY.—

''(A) ACCESS TO DATABASE.—No officer or employee of any agency or department of the United States, other than individuals responsible for the verification of employment eligibility or for the evaluation of the employment verification program at the Social Security Administration, the Department of Homeland Security, and the Department of Labor, may have access to any information contained in the Database.

''(B) PROTECTION FROM UNAUTHORIZED DISCLOSURE.—Information in the Database shall be adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Commissioner of Social Security, in consultation with the Secretary of Homeland Security and the Secretary of Labor.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to design, implement, and maintain the Database.

''(c) GRADUAL IMPLEMENTATION.—The Commissioner of Social Security, in coordination with the Secretary of Homeland Security and the Secretary of Labor shall develop a plan to phase all workers into the Database and phase out the employer verification system established in section 274A over a period of time that the Commissioner determines to be appropriate.

''(d) EMPLOYER RESPONSIBILITIES.—Each employer shall—

''(1) notify employees and prospective employees of the use of the System and that the System may be used for immigration enforcement purposes;

''(2) verify the identification and employment authorization status for newly hired individuals not later than 3 days after the date of hire;

''(3) use—

''(A) a machine-readable document described in subsection (a)(3)(B); or

''(B) the telephonic or electronic system to access the Database;

''(4) provide, for each employee hired, the occupation, metropolitan statistical area of employment, and annual compensation paid;

''(5) retain the code received indicating confirmation or nonconfirmation, for use in investigations; and

''(6) provide a copy of the employment verification receipt to such employees.

''(e) GOOD-FAITH COMPLIANCE.—

''(1) AFFIRMATIVE DEFENSE.—A person or entity that establishes good faith compliance with the requirements of this section with respect to the employment of an individual in the United States has established an affirmative defense that the person or entity has not violated this section.

''(2) LIMITATION.—Paragraph (1) shall not apply if a person or entity engages in an unlawful immigration-related employment practice described in subsection (a)(7).''.

(b) INTERIM DIRECTIVE.—Before the implementation of the Employment Eligibility Confirmation System (referred to in this section as the ''System'') established under section 274E of the Immigration and Nationality Act, as added by subsection (a), the Commissioner of Social Security, in coordination with the Secretary of Homeland Security, shall, to the maximum extent practicable, implement an interim system to confirm employment eligibility that is consistent with the provisions of such section.

(c) REPORTS.—

(1) IN GENERAL.—Not later than 3 months after the last day of the second year and of the third year that the System is in effect, the Comptroller General of the United States 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 System.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) an assessment of the impact of the System on the employment of unauthorized workers;

(B) an assessment of the accuracy of the Employment Eligibility Database maintained by the Department of Homeland Security and Social Security Administration databases, and timeliness and accuracy of responses from the Department of Homeland Security and the Social Security Administration to employers;

(C) an assessment of the privacy, confidentiality, and system security of the System;

(D) assess whether the System is being implemented in a nondiscriminatory manner; and

(E) include recommendations on whether or not the System should be modified.

SEC. __03. IMPROVED ENTRY AND EXIT DATA SYSTEM.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subsection (b)—

(A) in paragraph (1)(C), by striking ''Justice'' and inserting ''Homeland Security'';

(B) in paragraph (4), by striking ''and'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(6) collects the biometric machine-readable information from an alien's visa or immigration-related document described in section 221(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1201(a)(3) at the time an alien arrives in the United States and at the time an alien departs from the United States to determine if such alien is entering, or is present in, the United States unlawfully.''; and

(3) in subsection (f)(1), by striking ''Departments of Justice and State'' and inserting ''Department of Homeland Security and the Department of State''.

SEC. __04. DOCUMENT FRAUD DETECTION.

(a) TRAINING.—The Secretary of Homeland Security 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 Forensic Document Laboratory of the Immigration and Customs Enforcement.

(b) ACCESS TO FORENSIC DOCUMENT LABORATORY.—The Secretary of Homeland Security shall provide all customs and border protection officers with access to the Forensic Document Laboratory.

SEC. __05. CANCELLATION OF VISAS.

Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1), 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. __06. INSTITUTIONAL REMOVAL PROGRAM.

(a) CONTINUATION AND EXPANSION.—

(1) IN GENERAL.—The Attorney General and the Secretary of Homeland Security shall continue to operate and implement the Institutional Removal Program, which identifies removable criminal aliens in Federal and State correctional facilities, ensures such aliens are not released into the community, and removes such aliens from the United States after the completion of their sentences.

(2) EXPANSION.—The Institutional Removal Program shall be made available to all States.

(3) COOPERATION, IDENTIFICATION, AND NOTIFICATION.—Any State that receives Federal funds for the incarceration of criminal aliens shall—

(A) cooperate with Federal Institutional Removal Program officials;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey such information to authorities of the Institutional Removal Program as a condition for receiving such funds.

(b) TECHNOLOGY USAGE.—Technology, such as videoconferencing, shall be used to the maximum extent practicable in order to make the Institutional Removal Program available to facilities in remote locations.

TITLE—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY ACT OF 2005

SEC. __01. SHORT TITLE.

This title may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2005'' or the ''AgJOBS Act of 2005''.

SEC. __02. DEFINITIONS.

In this title:

(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) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(3) 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.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(5) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of ''man-day'' under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

Subtitle A—Adjustment to Lawful Status

SEC. __11. AGRICULTURAL WORKERS.

(a) TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer upon an alien who qualifies under this subsection the status of an alien lawfully admitted for temporary residence if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on December 31, 2004;

(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.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien 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.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien 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 TEMPORARY RESIDENT STATUS.—

(A) IN GENERAL.—During the period of temporary resident status granted an alien under this subsection, the Secretary may terminate such status only upon a determination under this Act that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF TEMPORARY RESIDENT 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 temporary resident status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to temporary resident 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 a single misdemeanor for which the actual sentence served is 6 months or longer.

(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 enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a), such status not having changed, 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 who acquires the status of an alien lawfully admitted for temporary residence under subsection (a) as described in paragraph (1) shall not be eligible, by reason of such acquisition of that 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 permanent resident status upon that alien under subsection (a).

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident 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 in accordance with this subparagraph of complaints by aliens granted temporary resident status under subsection (a) 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 temporary resident status under subsection (a) 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 temporary resident status under subsection (a) 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 lawful temporary resident status under subsection (a) 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 360 work days or 2,060 hours, but in no case less than 2,060 hours, of agricultural employment in the United States, during the 6-year period beginning after the date of enactment of this Act.

(ii) QUALIFYING YEARS.—The alien has performed at least 75 work days or 430 hours, but in no case less than 430 hours, of agricultural employment in the United States in at least 3 nonoverlapping periods of 12 consecutive months during the 6-year period beginning after the date of enactment of this Act. Qualifying periods under this clause may include nonconsecutive 12-month periods.

(iii) QUALIFYING WORK IN FIRST 3 YEARS.—The alien has performed at least 240 work days or 1,380 hours, but in no case less than 1,380 hours, of agricultural employment during the 3-year period beginning after the date of enactment of this Act.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(v) PROOF.—In meeting the requirements of clauses (i), (ii), and (iii), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(vi) DISABILITY.—In determining whether an alien has met the requirements of clauses (i), (ii), and (iii), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

(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 temporary resident status granted such alien under subsection (a), if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to temporary resident 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 temporary resident status under subsection (a) 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). The Secretary shall issue regulations establishing grounds to waive subparagraph (A)(iii) with respect to an alien who has completed at least 200 days of the work requirement specified in such subparagraph in the event of a natural disaster which substantially limits the availability of agricultural employment or a personal emergency that prevents compliance with such 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 temporary resident 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.—A spouse and minor child of an alien granted temporary resident status under subsection (a) may not be—

(i) removed while such alien maintains such status, except as provided in subparagraph (C); and

(ii) granted authorization to engage in employment in the United States or be provided an ''employment authorized'' endorsement or other work permit, unless such employment authorization is granted under another provision of law.

(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.—

(A) WITHIN THE UNITED STATES.—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary, but only if the applicant is represented by an attorney; 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

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B) OUTSIDE THE UNITED STATES.—The Secretary, in cooperation with the Secretary of State, shall establish a procedure whereby an alien may apply for temporary resident status under subsection (a) at an appropriate consular office outside the United States.

(C) PRELIMINARY APPLICATIONS.—

(i) IN GENERAL.—During the application period described in subsection (a)(1)(B), the Secretary may grant admission to the United States as a temporary resident and provide an ''employment authorized'' endorsement or other appropriate work permit to any alien who presents a preliminary application for such status under subsection (a) at a designated port of entry on the southern land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(ii) DEFINITION.—For purposes of clause (i), the term ''preliminary application'' means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.

(iii) ELIGIBILITY.—An applicant under clause (i) shall otherwise be admissible to the United States under subsection (e)(2) and shall establish to the satisfaction of the examining officer during an interview that the applicant's claim to eligibility for temporary resident status is credible.

(D) TRAVEL DOCUMENTATION.—The Secretary shall provide each alien granted status under this section with a counterfeit-resistant document of authorization to enter or reenter the United States that meets the requirements established by 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 8909732, Public Law 9509145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this Act 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 of Homeland Security, or bureau or agency thereof, 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 of Homeland Security, or bureau or agency thereof, 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 of Homeland Security 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 10409134 (110 Stat. 13210953 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)(A), and (9)(B) 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 temporary resident status under subsection (a) (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 temporary resident 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 temporary resident status under subsection (a) 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 2006 through 2009.

SEC. __12. 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 status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2005,''; 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 lawful temporary resident 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 enactment of this Act.

Subtitle B—Reform of H–2A Worker Program

SEC. __21. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by striking section 218 (8 U.S.C. 1188) and inserting the following:

''H–2A EMPLOYER APPLICATIONS

''SEC. 218. (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 218A 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 218A through 218C.

''(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.

''H–2A EMPLOYMENT REQUIREMENTS

''SEC. 218A. (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 enactment of the Agricultural Job Opportunity, Benefits, and Security Act of 2005 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 June 1, 2007, 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 June 1, 2007, 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 218B 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.

''PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS

''SEC. 218B. (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 218A, 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.—Notwithstanding any provision of the Agricultural Job Opportunity, Benefits, and Security Act of 2005, aliens admitted under section 101(a)(15)(H)(ii)(a) for employment as sheepherders—

''(1) may be admitted for a period of 12 months;

''(2) may be extended for a continuous 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.

''WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT

''SEC. 218C. (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 218A(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 218A(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 218A.

''(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 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(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 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(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 H–2A employer 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 218A or any rule or regulation pertaining to section 218 or 218A, 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 218A 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 218A, 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.

''DEFINITIONS

''SEC. 218D. For purposes of sections 218 through 218D:

''(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(h)(3)).

''(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 218A(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 of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.

''Sec. 218A. H–2A employment requirements.

''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.

''Sec. 218C. Worker protections and labor standards enforcement.

''Sec. 218D. Definitions.''.

Subtitle C—Miscellaneous Provisions

SEC. __31. 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 title and the amendments made by this title, and a collection process for such fees from employers participating in the program provided under this Act. Such fees shall be the only fees chargeable to employers for services provided under this Act.

(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 __21 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 Act, 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 218B of the Immigration and Nationality Act, as added by section __21 of this Act, and the provisions of this Act.

SEC. __32. 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 title and the amendments made by this title.

(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 title and the amendments made by this title.

(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 title and the amendments made by this title.

(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, 218A, 218B, and 218C of the Immigration and Nationality Act, as added by section __21 of this Act, shall take effect on the effective date of section __21 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. __33. RELIGIOUS ORGANIZATIONS.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following:

''(C) It is not a violation of clauses (ii), (iii), or (iv) of subparagraph (A) for a religious denomination described in section 101(a)(27)(C)(i) or an affiliated religious organization described in section 101(a)(27)(C)(ii)(III), or their agents or officers, to encourage, invite, call, allow, or enable an alien who is present in the United States in violation of law to carry on the vocation described in section 101(a)(27)(C)(ii)(I), as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, and other basic living expenses.''.

SEC. __34. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections __21 and __31 shall take effect 1 year after the date of enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of 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 title.

SA 1178. Mr. CRAIG (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE __—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY ACT OF 2005

SEC. __01. SHORT TITLE.

This title may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2005'' or the ''AgJOBS Act of 2005''.

SEC. __02. DEFINITIONS.

In this title:

(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) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(3) 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.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(5) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(6) UNITED STATES WORKER.—The term ''United States worker'' means any worker, whether a United States citizen or national, a lawfully admitted permanent resident alien, or any other alien, who is authorized to work in the job opportunity within the United States, except an alien admitted or otherwise provided status under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)).

(7) WORK DAY.—The term ''work day'' means any day in which the individual is employed 1 or more hours in agriculture consistent with the definition of ''man-day''

under section 3(u) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(u)).

Subtitle A—Adjustment to Lawful Status

SEC. __11. AGRICULTURAL WORKERS.

(a) TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer upon an alien who qualifies under this subsection the status of an alien lawfully admitted for temporary residence if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on December 31, 2004;

(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.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien 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.—During the period an alien is in lawful temporary resident status granted under this subsection, the alien 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 TEMPORARY RESIDENT STATUS.—

(A) IN GENERAL.—During the period of temporary resident status granted an alien under this subsection, the Secretary may terminate such status only upon a determination under this Act that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF TEMPORARY RESIDENT 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 temporary resident status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to temporary resident 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 a single misdemeanor for which the actual sentence served is 6 months or longer.

(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 enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED TEMPORARY RESIDENT STATUS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, an alien who acquires the status of an alien lawfully admitted for temporary residence under subsection (a), such status not having changed, 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 who acquires the status of an alien lawfully admitted for temporary residence under subsection (a) as described in paragraph (1) shall not be eligible, by reason of such acquisition of that 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 permanent resident status upon that alien under subsection (a).

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted temporary resident status under subsection (a) may be terminated from employment by any employer during the period of temporary resident 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 in accordance with this subparagraph of complaints by aliens granted temporary resident status under subsection (a) 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 temporary resident status under subsection (a) 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 temporary resident status under subsection (a) 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 lawful temporary resident status under subsection (a) 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 360 work days or 2,060 hours, but in no case less than 2,060 hours, of agricultural employment in the United States, during the 6-year period beginning after the date of enactment of this Act.

(ii) QUALIFYING YEARS.—The alien has performed at least 75 work days or 430 hours, but in no case less than 430 hours, of agricultural employment in the United States in at least 3 nonoverlapping periods of 12 consecutive months during the 6-year period beginning after the date of enactment of this Act. Qualifying periods under this clause may include nonconsecutive 12-month periods.

(iii) QUALIFYING WORK IN FIRST 3 YEARS.—The alien has performed at least 240 work days or 1,380 hours, but in no case less than 1,380 hours, of agricultural employment during the 3-year period beginning after the date of enactment of this Act.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(v) PROOF.—In meeting the requirements of clauses (i), (ii), and (iii), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(vi) DISABILITY.—In determining whether an alien has met the requirements of clauses (i), (ii), and (iii), the Secretary shall credit the alien with any work days lost because the alien was unable to work in agricultural employment due to injury or disease arising out of and in the course of the alien's agricultural employment, if the alien can establish such disabling injury or disease through medical records.

(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 temporary resident status granted such alien under subsection (a), if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to temporary resident 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 temporary resident status under subsection (a) 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). The Secretary shall issue regulations establishing grounds to waive subparagraph (A)(iii) with respect to an alien who has completed at least 200 days of the work requirement specified in such subparagraph in the event of a natural disaster which substantially limits the availability of agricultural employment or a personal emergency that prevents compliance with such 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 temporary resident 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.—A spouse and minor child of an alien granted temporary resident status under subsection (a) may not be—

(i) removed while such alien maintains such status, except as provided in subparagraph (C); and

(ii) granted authorization to engage in employment in the United States or be provided an ''employment authorized'' endorsement or other work permit, unless such employment authorization is granted under another provision of law.

(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.—

(A) WITHIN THE UNITED STATES.—The Secretary shall provide that—

(i) applications for temporary resident status under subsection (a) may be filed—

(I) with the Secretary, but only if the applicant is represented by an attorney; 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

(ii) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(B) OUTSIDE THE UNITED STATES.—The Secretary, in cooperation with the Secretary of State, shall establish a procedure whereby an alien may apply for temporary resident status under subsection (a) at an appropriate consular office outside the United States.

(C) PRELIMINARY APPLICATIONS.—

(i) IN GENERAL.—During the application period described in subsection (a)(1)(B), the Secretary may grant admission to the United States as a temporary resident and provide an ''employment authorized'' endorsement or other appropriate work permit to any alien who presents a preliminary application for such status under subsection (a) at a designated port of entry on the southern land border of the United States. An alien who does not enter through a port of entry is subject to deportation and removal as otherwise provided in this Act.

(ii) DEFINITION.—For purposes of clause (i), the term ''preliminary application'' means a fully completed and signed application which contains specific information concerning the performance of qualifying employment in the United States, together with the payment of the appropriate fee and the submission of photographs and the documentary evidence which the applicant intends to submit as proof of such employment.

(iii) ELIGIBILITY.—An applicant under clause (i) shall otherwise be admissible to the United States under subsection (e)(2) and shall establish to the satisfaction of the examining officer during an interview that the applicant's claim to eligibility for temporary resident status is credible.

(D) TRAVEL DOCUMENTATION.—The Secretary shall provide each alien granted status under this section with a counterfeit-resistant document of authorization to enter or reenter the United States that meets the requirements established by 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 8909732, Public Law 9509145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this Act 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 of Homeland Security, or bureau or agency thereof, 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 of Homeland Security, or bureau or agency thereof, 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 of Homeland Security 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 10409134 (110 Stat. 13210953 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)(A), and (9)(B) 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 temporary resident status under subsection (a) (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 temporary resident 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 temporary resident status under subsection (a) 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 2006 through 2009.

SEC. _12. 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 status as a lawful temporary resident under the Agricultural Job Opportunity, Benefits, and Security Act of 2005,''; 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 lawful temporary resident 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 enactment of this Act.

Subtitle B—Reform of H092A Worker Program

SEC. _21. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.

(a) IN GENERAL.—The Immigration and Nationality Act is amended by striking section 218 (8 U.S.C. 1188) and inserting the following:

''H092A EMPLOYER APPLICATIONS

''SEC. 218. (a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H092A worker, or otherwise provided status as an H092A 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 H092A 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 H092A 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 218A 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 H092A 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 H092A 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 H092A nonimmigrant is, or H092A 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 H092A 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 H092A 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 H092A 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 H092A 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 218A through 218C.

''(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 H092A 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.

''H–2A EMPLOYMENT REQUIREMENTS

''SEC. 218A. (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 enactment of the Agricultural Job Opportunity, Benefits, and Security Act of 2005 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 June 1, 2007, 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 June 1, 2007, 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 218B 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.

''PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS

''SEC. 218B. (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 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall

promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅕ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS.—Notwithstanding any provision of the Agricultural Job Opportunity, Benefits, and Security Act of 2005, aliens admitted under section 101(a)(15)(H)(ii)(a) for employment as sheepherders—

''(1) may be admitted for a period of 12 months;

''(2) may be extended for a continuous 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.

''WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT

''SEC. 218C. (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 218A(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 218A(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 218A.

''(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 218A(b)(1).

''(2) The reimbursement of transportation as required under section 218A(b)(2).

''(3) The payment of wages required under section 218A(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 218A(c), compliance with which shall be governed by the provisions of such laws.

''(5) The guarantee of employment required under section 218A(b)(4).

''(6) The motor vehicle safety requirements under section 218A(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 H–2A employer 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 218A or any rule or regulation pertaining to section 218 or 218A, 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 218A 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 218A, 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.

''DEFINITIONS

''SEC. 218D. For purposes of sections 218 through 218D:

''(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(h)(3)).

''(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 218A(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 of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by striking the item relating to section 218 and inserting the following:

''Sec. 218. H–2A employer applications.
''Sec. 218A. H–2A employment requirements.
''Sec. 218B. Procedure for admission and extension of stay of H–2A workers.
''Sec. 218C. Worker protections and labor standards enforcement.
''Sec. 218D. Definitions.''.

Subtitle C—Miscellaneous Provisions

SEC. __31. 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 title and the amendments made by this title, and a collection process for such fees from employers participating in the program provided under this Act. Such fees shall be the only fees chargeable to employers for services provided under this Act.

(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 __21 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 Act, 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 218B of the Immigration and Nationality Act, as added by section __21 of this Act, and the provisions of this Act.

SEC. __32. 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 title and the amendments made by this title.

(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 title and the amendments made by this title.

(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 title and the amendments made by this title.

(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, 218A, 218B, and 218C of the Immigration and Nationality Act, as added by section __21 of this Act, shall take effect on the effective date of section __21 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. __33. RELIGIOUS ORGANIZATIONS.

Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)) is amended by adding at the end the following:

''(C) It is not a violation of clauses (ii), (iii), or (iv) of subparagraph (A) for a religious denomination described in section 101(a)(27)(C)(i) or an affiliated religious organization described in section 101(a)(27)(C)(ii)(III), or their agents or officers, to encourage, invite, call, allow, or enable an alien who is present in the United States in violation of law to carry on the vocation described in section 101(a)(27)(C)(ii)(I), as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, and other basic living expenses.''.

SEC. __34. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections __21 and __31 shall take effect

1 year after the date of enactment of this Act.

(b) REPORT.—Not later than 180 days after the date of 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 title.

SA 1179. Mr. INOUYE submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, after line 24, insert the following:

VULNERABILITY AND RISK ASSESSMENT

For necessary expenses of the Transportation Security Administration in working with the Department of Transportation and other appropriate agencies, to complete a vulnerability and risk assessment of passenger and freight rail transportation.

On page 77, line 18, strike ''$2,694,300,000'' and insert ''$2,959,300,000''.

On page 79, between lines 22 and 23, insert the following:

(7) $265,000,000 for rail security grants, of which—

(A) $185,000,000 shall be for grants to railroads, hazardous materials shippers, rail car owners, universities, State and local governments, and Amtrak for activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats;

(B) $40,000,000 shall be for grants to Amtrak to make fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC; and

(C) $35,000,000 shall be for research and development to improve freight and intercity passenger rail security.

SA 1180. Mr. KENNEDY (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION ___—BORDER SECURITY AND IMMIGRATION

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This division may be cited as the ''Secure America and Orderly Immigration Act''.

(b) TABLE OF CONTENTS.—The table of contents for this division is as follows:

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Government of the United States has an obligation to its citizens to secure its borders and ensure the rule of law in its communities.

(2) The Government of the United States must strengthen international border security efforts by dedicating adequate and significant resources for technology, personnel, and training for border region enforcement.

(3) Federal immigration policies must adhere to the United States tradition as a nation of immigrants and reaffirm this Nation's commitment to family unity, economic opportunity, and humane treatment.

(4) Immigrants have contributed significantly to the strength and economic prosperity of the United States and action must be taken to ensure their fair treatment by employers and protection against fraud and abuse.

(5) Current immigration laws and the enforcement of such laws are ineffective and do not serve the people of the United States, the national security interests of the United States, or the economic prosperity of the United States.

(6) The United States cannot effectively carry out its national security policies unless the United States identifies undocumented immigrants and encourages them to come forward and participate legally in the economy of the United States.

(7) Illegal immigration fosters other illegal activity, including human smuggling, trafficking, and document fraud, all of which undermine the national security interests of the United States.

(8) Illegal immigration burdens States and local communities with hundreds of millions of dollars in uncompensated expenses for law enforcement, health care, and other essential services.

(9) Illegal immigration creates an underclass of workers who are vulnerable to fraud and exploitation.

(10) Fixing the broken immigration system requires a comprehensive approach that provides for adequate legal channels for immigration and strong enforcement of immigration laws which will serve the economic, social, and security interests of the United States.

(11) Foreign governments, particularly those that share an international border with the United States, must play a critical role in securing international borders and deterring illegal entry of foreign nationals into the United States.

(12) Federal immigration policy should foster economic growth by allowing willing workers to be matched with willing employers when no United States worker is available to take a job.

(13) Immigration reform is a key component to achieving effective enforcement and

will allow for the best use of security and enforcement resources to be focused on the greatest risks.

(14) Comprehensive immigration reform and strong enforcement of immigration laws will encourage legal immigration, deter illegal immigration, and promote the economic and national security interests of the United States.

TITLE I—BORDER SECURITY

SEC. 101. DEFINITIONS.

In this title:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Homeland Security and Governmental Affairs of the Senate;

(B) the Committee on the Judiciary of the Senate;

(C) the Committee on Homeland Security of the House of Representatives; and

(D) the Committee on the Judiciary of the House of Representatives.

(2) INTERNATIONAL BORDER OF THE UNITED STATES.—The term ''international border of the United States'' means the international border between the United States and Canada and the international border between the United States and Mexico, including points of entry along such international borders.

(3) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(4) SECURITY PLAN.—The term ''security plan'' means a security plan developed as part of the National Strategy for Border Security set forth under section 111(a) for the Border Patrol and the field offices of the Bureau of Customs and Border Protection of the Department of Homeland Security that has responsibility for the security of any portion of the international border of the United States.

Subtitle A—Border Security Strategic Planning

SEC. 111. NATIONAL STRATEGY FOR BORDER SECURITY.

(a) IN GENERAL.—In conjunction with strategic homeland security planning efforts, the Secretary shall develop, implement, and update, as needed, a National Strategy for Border Security that includes a security plan for the Border Patrol and the field offices of the Bureau of Customs and Border Protection of the Department of Homeland Security that has responsibility for the security of any portion of the international border of the United States.

(b) CONTENTS.—The National Strategy for Border Security shall include—

(1) the identification and evaluation of the points of entry and all portions of the international border of the United States that, in the interests of national security and enforcement, must be protected from illegal transit;

(2) a description of the most appropriate, practical, and cost-effective means of defending the international border of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities within the United States for the Border Patrol and the field offices of the Bureau of Customs and Border Protection that have responsibility for any portion of the international border of the United States;

(3) risk-based priorities for assuring border security and realistic deadlines for addressing security and enforcement needs identified in paragraphs (1) and (2);

(4) a strategic plan that sets out agreed upon roles and missions of Federal, State, regional, local, and tribal authorities, including appropriate coordination among such authorities, to enable security enforcement and border lands management to be carried out in an efficient and effective manner;

(5) a prioritization of research and development objectives to enhance the security of the international border of the United States and enforcement needs to promote such security consistent with the provisions of subtitle B;

(6) an update of the 2001 Port of Entry Infrastructure Assessment Study conducted by the United States Customs Service, in consultation with the General Services Administration;

(7) strategic interior enforcement coordination plans with personnel of Immigration and Customs Enforcement;

(8) strategic enforcement coordination plans with overseas personnel of the Department of Homeland Security and the Department of State to end human smuggling and trafficking activities;

(9) any other infrastructure or security plan or report that the Secretary determines appropriate for inclusion;

(10) the identification of low-risk travelers and how such identification would facilitate cross-border travel; and

(11) ways to ensure that the trade and commerce of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland.

(c) PRIORITY OF NATIONAL STRATEGY.—The National Strategy for Border Security shall be the governing document for Federal security and enforcement efforts related to securing the international border of the United States.

SEC. 112. REPORTS TO CONGRESS.

(a) NATIONAL STRATEGY.—

(1) INITIAL SUBMISSION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the National Strategy for Border Security, including each security plan, to the appropriate congressional committees. Such plans shall include estimated costs of implementation and training from a fiscal and personnel perspective and a cost-benefit analysis of any technological security implementations.

(2) SUBSEQUENT SUBMISSIONS.—After the submission required under paragraph (1), the Secretary shall submit to the appropriate congressional committees any revisions to the National Strategy for Border Security, including any revisions to a security plan, not less frequently than April 1 of each odd-numbered year. The plan shall include estimated costs for implementation and training and a cost-benefit analysis of technological security implementations that take place during the time frame under evaluation.

(b) PERIODIC PROGRESS REPORTS.—

(1) REQUIREMENT FOR REPORT.—Each year, in conjunction with the submission of the budget to Congress under section 1105(a) of title 31, United States Code, the Secretary shall submit to the appropriate congressional committees an assessment of the progress made on implementing the National Strategy for Border Security, including each security plan.

(2) CONTENT.—Each progress report submitted under this subsection shall include any recommendations for improving and implementing the National Strategy for Border Security, including any recommendations for improving and implementing a security plan.

(c) CLASSIFIED MATERIAL.—

(1) IN GENERAL.—Any material included in the National Strategy for Border Security, including each security plan, that includes information that is properly classified under criteria established by Executive order shall be submitted to the appropriate congressional committees in a classified form.

(2) UNCLASSIFIED VERSION.—As appropriate, an unclassified version of the material described in paragraph (1) shall be provided to the appropriate congressional committees.

SEC. 113. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this subtitle for each of the 5 fiscal years beginning with the fiscal year after the fiscal year in which this Act was enacted.

Subtitle B—Border Infrastructure, Technology Integration, and Security Enhancement

SEC. 121. BORDER SECURITY COORDINATION PLAN.

(a) IN GENERAL.—The Secretary shall coordinate with Federal, State, local, and tribal authorities on law enforcement, emergency response, and security-related responsibilities with regard to the international border of the United States to develop and implement a plan to ensure that the security of such international border is not compromised—

(1) when the jurisdiction for providing such security changes from one such authority to another such authority;

(2) in areas where such jurisdiction is shared by more than one such authority; or

(3) by one such authority relinquishing such jurisdiction to another such authority pursuant to a memorandum of understanding.

(b) ELEMENTS OF PLAN.—In developing the plan, the Secretary shall consider methods to—

(1) coordinate emergency responses;

(2) improve data-sharing, communications, and technology among the appropriate agencies;

(3) promote research and development relating to the activities described in paragraphs (1) and (2); and

(4) combine personnel and resource assets when practicable.

(c) REPORT.—Not later than 1 year after implementing the plan developed under subsection (a), the Secretary shall transmit a report to the appropriate congressional committees on the development and implementation of such plan.

SEC. 122. BORDER SECURITY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary is authorized to establish a Border Security Advisory Committee (referred to in this section as the ''Advisory Committee'') to provide advice and recommendations to the Secretary on border security and enforcement issues.

(b) COMPOSITION.—

(1) IN GENERAL.—The members of the Advisory Committee shall be appointed by the Secretary and shall include representatives of—

(A) States that are adjacent to the international border of the United States;

(B) local law enforcement agencies; community officials, and tribal authorities of such States; and

(C) other interested parties.

(2) MEMBERSHIP.—The Advisory Committee shall be comprised of members who represent a broad cross section of perspectives.

SEC. 123. PROGRAMS ON THE USE OF TECHNOLOGIES FOR BORDER SECURITY.

(a) AERIAL SURVEILLANCE TECHNOLOGIES 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 10809458), the Secretary, not later than 60 days after the date of enactment of this Act, shall develop and implement a program to fully integrate aerial surveillance technologies to enhance the border security of the United States.

(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 the 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 utilization of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near the 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.

(B) USE OF UNMANNED AERIAL VEHICLES.—The aerial surveillance technologies utilized in the program shall include unmanned aerial vehicles.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of their utilization and until such time the Secretary determines appropriate.

(5) REPORT.—

(A) REQUIREMENT.—Not later than 1 year after implementing the program under this subsection, the Secretary shall submit a report on such program to the appropriate congressional committees.

(B) CONTENT.—The Secretary shall include in the report required by subparagraph (A) a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(b) DEMONSTRATION PROGRAMS.—The Secretary is authorized, as part of the development and implementation of the National Strategy for Border Security, to establish and carry out demonstration programs to strengthen communication, information sharing, technology, security, intelligence benefits, and enforcement activities that will protect the international border of the United States without diminishing international trade and commerce.

(c) INSERT CONTINUED USE OF GROUND SURVEILLANCE TECHNOLOGIES.—

SEC. 124. 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 of Homeland Security 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.

SEC. 125. SAVINGS CLAUSE.

Nothing in this subtitle or subtitle A may be construed to provide to any State or local entity any additional authority to enforce Federal immigration laws.

Subtitle C—International Border Enforcement

SEC. 131. NORTH AMERICAN SECURITY INITIATIVE.

(a) IN GENERAL.—The Secretary of State shall enhance the mutual security and safety of the United States, Canada, and Mexico by providing a framework for better management, communication, and coordination between the Governments of North America.

(b) RESPONSIBILITIES.—In implementing the provisions of this subtitle, the Secretary of State shall carry out all of the activities described in this subtitle.

SEC. 132. INFORMATION SHARING AGREEMENTS.

The Secretary of State, in coordination with the Secretary of Homeland Security and the Government of Mexico, is authorized to negotiate an agreement with Mexico to—

(1) cooperate in the screening of third-country nationals using Mexico as a transit corridor for entry into the United States; and

(2) provide technical assistance to support stronger immigration control at the border with Mexico.

SEC. 133. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary of Homeland Security, the Canadian Department of Foreign Affairs, and the Government of Mexico, shall establish a program to—

(1) assess the specific needs of the governments of Central American countries in maintaining the security of the borders of such countries;

(2) use the assessment made under paragraph (1) to determine the financial and technical support needed by the governments of Central American countries from Canada, Mexico, and the United States to meet such needs;

(3) provide technical assistance to the governments of Central American countries to secure issuance of passports and travel documents by such countries; and

(4) encourage the governments of Central American countries to—

(A) control alien smuggling and trafficking;

(B) prevent the use and manufacture of fraudulent travel documents; and

(C) share relevant information with Mexico, Canada, and the United States.

(b) IMMIGRATION.—The Secretary of Homeland Security, in consultation with the Secretary of State and appropriate officials of the governments of Central American countries shall provide robust law enforcement assistance to such governments that specifically addresses migratory issues to increase the ability of such governments to dismantle human smuggling organizations and gain tighter control over the border.

(c) BORDER SECURITY BETWEEN MEXICO AND GUATEMALA OR BELIZE.—The Secretary of State, in consultation with the Secretary of Homeland Security, the Government of Mexico, and appropriate officials of the Governments of Guatemala, Belize, and neighboring contiguous countries, shall establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international border between Mexico and Guatemala and between Mexico and Belize.

(d) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary of Homeland Security, the Director of the Federal Bureau of Investigation, the Government of Mexico, and appropriate officials of the governments of Central American countries, shall—

(1) assess the direct and indirect impact on the United States and Central America on deporting violent criminal aliens;

(2) establish a program and database to track Central American gang activities, focusing on the identification of returning criminal deportees;

(3) devise an agreed-upon mechanism for notification applied prior to deportation and for support for reintegration of these deportees; and

(4) devise an agreement to share all relevant information with the appropriate agencies of Mexico and other Central American countries.

TITLE II—STATE CRIMINAL ALIEN ASSISTANCE

SEC. 201. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM AUTHORIZATION OF APPROPRIATIONS.

Section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended by striking paragraphs (5) and (6) and inserting the following:

''(5) AUTHORIZATION OF APPROPRIATIONS.—

''(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection—

''(i) such sums as may be necessary for fiscal year 2005;

''(ii) $750,000,000 for fiscal year 2006;

''(iii) $850,000,000 for fiscal year 2007; and

''(iv) $950,000,000 for each of the fiscal years 2008 through 2011.

''(B) LIMITATION ON USE OF FUNDS.—Amounts appropriated pursuant to subparagraph (A) that are distributed to a State or political subdivision of a State, including a municipality, may be used only for correctional purposes.''.

SEC. 202. REIMBURSEMENT OF STATES FOR INDIRECT COSTS RELATING TO THE INCARCERATION OF ILLEGAL ALIENS.

Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended—

(1) in subsection (a)—

(A) by striking ''for the costs'' and inserting the following: ''for—

''(1) the costs''; and

(B) by striking ''such State.'' and inserting the following: ''such State; and

''(2) the indirect costs related to the imprisonment described in paragraph (1).''; and

(2) by striking subsections (c) through (e) and inserting the following:

''(c) MANNER OF ALLOTMENT OF REIMBURSEMENTS.—Reimbursements under this section shall be allotted in a manner that gives special consideration for any State that—

''(1) shares a border with Mexico or Canada; or

''(2) includes within the State an area in which a large number of undocumented aliens reside relative to the general population of that area.

''(d) DEFINITIONS.—As used in this section:

''(1) INDIRECT COSTS.—The term 'indirect costs' includes—

''(A) court costs, county attorney costs, detention costs, and criminal proceedings expenditures that do not involve going to trial;

''(B) indigent defense costs; and

''(C) unsupervised probation costs.

''(2) STATE.—The term 'State' has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for each of the fiscal years 2005 through 2011 to carry out subsection (a)(2).''.

SEC. 203. REIMBURSEMENT OF STATES FOR PRE-CONVICTION COSTS RELATING TO THE INCARCERATION OF ILLEGAL ALIENS.

Section 241(i)(3)(A) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(3)(a) is amended by inserting ''charged with or'' before ''convicted.''

TITLE III—ESSENTIAL WORKER VISA PROGRAM

SEC. 301. ESSENTIAL WORKERS.

Section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) is amended—

(1) by striking ''(H) an alien (i)(b)'' and inserting the following:

''(H) an alien—

''(i)(b)'';

(2) by striking ''or (ii)(a)'' and inserting the following:

''(ii)(a)'';

(3) by striking ''or (iii)'' and inserting the following:

''(iii)''; and

(4) by adding at the end the following:

''(v)(a) subject to section 218A, having residence in a foreign country, which the alien has no intention of abandoning, who is coming temporarily to the United States to initially perform labor or services (other than those occupation classifications covered under the provisions of clause (i)(b) or (ii)(a) or subparagraph (L), (O), (P), or (R)); or.''.

SEC. 302. ADMISSION OF ESSENTIAL WORKERS.

(a) IN GENERAL.—Chapter 2 of title II of the Immigration and Nationality Act (8 U.S.C. 1181 et seq.) is amended by inserting after section 218 the following:

''ADMISSION OF TEMPORARY H095A WORKERS

''SEC. 218A. (a) The Secretary of State may grant a temporary visa to a nonimmigrant described in section 101(a)(15)(H)(v)(a) who demonstrates an intent to perform labor or services in the United States (other than those occupational classifications covered under the provisions of 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.—In order to be eligible for nonimmigrant status under section 101(a)(15)(H)(v)(a), an alien shall meet 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)(v).

''(2) EVIDENCE OF EMPLOYMENT.—The alien's evidence of employment shall be provided through the Employment Eligibility Confirmation System established under section 274E or in accordance with requirements issued by the Secretary of State, in consultation with the Secretary of Homeland Security. In carrying out this paragraph, the Secretary may consider evidence from employers, employer associations, and labor representatives.

''(3) FEE.—The alien shall pay a $500 application fee to apply for the visa 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.

''(c) GROUNDS OF INADMISSIBILITY.—

''(1) IN GENERAL.—In determining an alien's admissibility as a nonimmigrant under section 101(a)(15)(H)(v)(a)—

''(A) paragraphs (5), (6) (except for subparagraph (E)), (7), (9), and (10)(B) of section 212(a) may be waived for conduct that occurred before the date on which the Secure America and Orderly Immigration Act was introduced;

''(B) the Secretary of Homeland Security may not waive—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraph (A) or (C) of section 212(a)(10) (relating to polygamists and child abductors);

''(C) for conduct that occurred before the date on which the Secure America and Orderly Immigration Act was introduced, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

''(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security to waive the provisions of section 212(a).

''(2) WAIVER FINE.—An alien who is granted a waiver under subparagraph (1) shall pay a $1,500 fine upon approval of the alien's visa application.

''(3) APPLICABILITY OF OTHER PROVISIONS.—Sections 240B(d) and 241(a)(5) shall not apply to an alien who initially seeks admission as a nonimmigrant under section 101(a)(15)(H)(v)(a).

''(4) RENEWAL OF AUTHORIZED ADMISSION AND SUBSEQUENT ADMISSIONS.—An alien seeking renewal of authorized admission or subsequent admission as a nonimmigrant under section 101(a)(15)(H)(v)(a) shall establish that the alien is not inadmissible under section 212(a).

''(d) PERIOD OF AUTHORIZED ADMISSION.—

''(1) INITIAL PERIOD.—The initial period of authorized admission as a nonimmigrant described in section 101(a)(15)(H)(v)(a) shall be 3 years.

''(2) RENEWALS.—The alien may seek an extension of the period described in paragraph (1) for 1 additional 3-year period.

''(3) LOSS OF EMPLOYMENT.—

''(A) IN GENERAL.—Subject to subsection (c), the period of authorized admission of a nonimmigrant alien under section 101(a)(15)(H)(v)(a) shall terminate if the nonimmigrant is unemployed for 45 or more consecutive days.

''(B) RETURN TO FOREIGN RESIDENCE.—Any alien whose period of authorized admission terminates under subparagraph (A) shall be required to return to the country of the alien's nationality or last residence.

''(C) PERIOD OF VISA VALIDITY.—Any alien, whose period of authorized admission terminates under subparagraph (A), who returns to the country of the alien's nationality or last residence under subparagraph (B), may reenter the United States on the basis of the same visa to work for an employer, if the alien has complied with the requirements of subsection (b)(1).

''(4) VISITS OUTSIDE UNITED STATES.—

''(A) IN GENERAL.—Under regulations established by the Secretary of Homeland Security, a nonimmigrant alien under section 101(a)(15)(H)(v)(a)—

''(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.

''(e) PORTABILITY.—A nonimmigrant alien described in this section, who was previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(v)(a), may accept new employment with a subsequent employer.

''(f) WAIVER OF RIGHTS PROHIBITED.—A nonimmigrant alien described in section 101(a)(15)(H)(v)(a) may not be required to waive any rights or protections under the Secure America and Orderly Immigration Act.

''(g) CHANGE OF ADDRESS.—An alien having nonimmigrant status described in section 101(a)(15)(H)(v)(a) shall comply by either electronic or paper notification with the change of address reporting requirements under section 265.

''(h) BAR TO FUTURE VISAS FOR VIOLATIONS.—

''(1) IN GENERAL.—Any alien having the nonimmigrant status described in section 101(a)(15)(H)(v)(a) shall not be eligible to renew such nonimmigrant status if the alien willfully violates any material term or condition of such status.

''(2) WAIVER.—The alien may apply for a waiver of the application of subparagraph (A) for technical violations, inadvertent errors, or violations for which the alien was not at fault.

''(i) COLLECTION OF FEES.—All fees collected under this section shall be deposited in the Treasury in accordance with section 286(w).''.

(b) CONFORMING AMENDMENT REGARDING PRESUMPTION OF NONIMMIGRANT STATUS.—Section 214(b) of the Immigration and Nationality Act (8 U.S.C. 1184(b)) is amended by inserting ''(H)(v)(a),'' after ''(H)(i),''.

(c) 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 H095A workers.''.

SEC. 303. EMPLOYER OBLIGATIONS.

Employers employing a nonimmigrant described in section 101(a)(15)(H)(v)(a) of the Immigration and Nationality Act, as added by section 301, shall comply with all applicable Federal, State, and local laws, including—

(1) laws affecting migrant and seasonal agricultural workers; and

(2) the requirements under section 274E of such Act, as added by section 402.

SEC. 304. PROTECTION FOR WORKERS.

Section 218A of the Immigration and Nationality Act, as added by section 302, is amended by adding at the end the following:

''(h) APPLICATION OF LABOR AND OTHER LAWS.—

''(1) DEFINITIONS.—As used in this subsection and in subsections (i) through (k):

''(A) 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).

''(B) 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.

''(C) 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)(v)(a).

''(2) COVERAGE.—Notwithstanding any other provision of law—

''(A) a nonimmigrant alien described in section 101(a)(15)(H)(v)(a) is prohibited from being treated as an independent contractor; and

''(B) no person may treat a nonimmigrant alien described in section 101(a)(15)(H)(v)(a) as an independent contractor.

''(3) APPLICABILITY OF LAWS.—A nonimmigrant alien described in section 101(a)(15)(H)(v)(a) 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.

''(4) TAX RESPONSIBILITIES.—With respect to each employed nonimmigrant alien described in section 101(a)(15)(H)(v)(a), an employer shall comply with all applicable Federal, State, and local tax and revenue laws.

''(5) NONDISCRIMINATION IN EMPLOYMENT.—An employer shall provide nonimmigrants issued a visa under this section with the same wages, benefits, and working conditions that are provided by the employer to United States workers similarly employed in the same occupation and the same place of employment.

''(6) NO REPLACEMENT OF STRIKING EMPLOYEES.—An employer may not hire a nonimmigrant alien described in section 101(a)(15)(H)(v)(a) as a replacement worker if there is a strike or lockout in the course of a labor dispute in the occupational classification at the place of employment.

''(7) WAIVER OF RIGHTS PROHIBITED.—A nonimmigrant alien described in section 101(a)(15)(H)(v)(a) may not be required to waive any rights or protections under the Secure America and Orderly Immigration Act. Nothing under this provision shall be construed to affect the interpretation of other laws.

''(8) NO THREATENING OF EMPLOYEES.—It shall be a violation of this section for an employer who has filed a petition under section 203(b) to threaten the alien beneficiary of such a petition with withdrawal of the application, or to withdraw such a petition in retaliation for the beneficiary's exercise of a right protected by the Secure America and Orderly Immigration Act.

''(9) WHISTLEBLOWER PROTECTION.—It shall be unlawful for an employer or a labor contractor of a nonimmigrant alien described in section 101(a)(15)(H)(v)(a) 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—

''(A) discloses information to the employer or any other person that the employee or former employee reasonably believes demonstrates a violation of Secure America and Orderly Immigration Act.

''(B) cooperates or seeks to cooperate in an investigation or other proceeding concerning compliance with the requirements of the Secure America and Orderly Immigration Act.

''(i) 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 the following information 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 work related injuries and death, during the period of employment and, if so, the name of the State workers' compensation insurance carrier or the name of the policyholder of the private insurance, the name and the telephone number of each person who must be notified of an injury or death, and the time period within which such notice must be given.

''(J) Any education or training to be provided or required, including the nature and cost of such training, who will pay such costs, and whether the training is a condition of employment, continued employment, or future employment.

''(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 Department 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.—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. Such process shall include requirements under paragraphs (1), (4), and (5) of section 1812 of title 29, United States Code, an expeditious means to update registrations and renew certificates and any other requirements 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. The justification for such refusal, suspension, or revocation may include the following:

''(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 is a person who has been refused issuance or renewal of a certificate, has had a certificate suspended or revoked, or does not qualify for a certificate under this paragraph.

''(III) The applicant for or holder of the certification has failed to comply with the Secure America and Orderly Immigration 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 (j) and (k). 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 (j) and (k). An employer that violates a provision of this subsection relating to employer obligations shall be subject to remedies under this subsections (j) and (k).

''(D) EMPLOYER NOTIFICATION.—An employer shall notify the Secretary of Labor any time the employer becomes aware of a violation of this subsection by a foreign labor recruiter.

''(E) WRITTEN AGREEMENTS.—No foreign labor contractor shall 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 under this subsection 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.

''(j) ENFORCEMENT.—

''(1) IN GENERAL.—The Secretary of Labor shall prescribe regulations for the receipt, investigation, and disposition of complaints by an aggrieved person respecting a violation of this section.

''(2) DEFINITION.—As used in this subsection, an 'aggrieved person' is a person adversely affected by the alleged violation, 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.

''(3) 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.

''(4) 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.

''(5) 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 (6).

''(6) 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.

''(7) 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 (k); or

''(C) to ensure compliance with terms and conditions described in subsection (i).

''(8) 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.

''(9) PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.—The rights and remedies provided to workers under this section are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the workers, and are not intended to alter or affect such rights and remedies.

''(k) PENALTIES.—

''(1) IN GENERAL.—If, after notice and an opportunity for a hearing, the Secretary of Labor finds a violation of subsection (h) or (i), the Secretary may impose administrative remedies and penalties, including—

''(A) back wages;

''(B) fringe 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 (h)—

''(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 (i)—

''(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 (i) 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 not more than $35,000 fine, or both.''.

SEC. 305. MARKET-BASED NUMERICAL LIMITATIONS.

Section 214(g) of the Immigration and Nationality Act (8 U.S.C. 1184(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''(beginning with fiscal year 1992)'';

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) under section 101(a)(15)(H)(v)(a), may not exceed—

''(i) 400,000 for the first fiscal year in which the program is implemented;

''(ii) in any subsequent fiscal year—

''(I) if the total number of visas allocated for that fiscal year are allotted within the first quarter of that fiscal year, then an additional 20 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 20 percent of the original allocated amount in the prior fiscal year;

''(II) if the total number of visas allocated for that fiscal year are allotted within the second quarter of that fiscal year, then an additional 15 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 15 percent of the original allocated amount in the prior fiscal year;

''(III) if the total number of visas allocated for that fiscal year are allotted within the third quarter of that fiscal year, then an additional 10 percent of the allocated number shall be made available immediately and the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year;

''(IV) if the total number of visas allocated for that fiscal year are allotted within the last quarter of that fiscal year, then the allocated amount for the following fiscal year shall increase by 10 percent of the original allocated amount in the prior fiscal year; and

''(V) with the exception of the first subsequent fiscal year to the fiscal year in which the program is implemented, if fewer visas were allotted the previous fiscal year than the number of visas allocated for that year and the reason was not due to processing delays or delays in promulgating regulations, then the allocated amount for the following fiscal year shall decrease by 10 percent of the allocated amount in the prior fiscal year.''; and

(2) by adding at the end the following:

''(9)(A) Of the total number of visas allocated for each fiscal year under paragraph (1)(C)—

''(i) 50,000 visas shall be allocated to qualifying counties; and

''(ii) any of the visas allocated under clause (i) that are not issued by June 30 of such fiscal year, may be made available to any qualified applicant.

''(B) In this paragraph, the term 'qualifying county' means any county that—

''(i) that is outside a metropolitan statistical area; and

''(ii) during the 20-year-period ending on the last day of the calendar year preceding the date of enactment of the Secure America and Orderly Immigration Act, experienced a net out-migration of inhabitants from the county of at least 10 percent of the population of the county at the beginning of such period.

''(10) In allocating visas under this subsection, the Secretary of State may take any additional measures necessary to deter illegal immigration.''.

SEC. 306. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS.

Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n)(1) For purposes of adjustment of status under subsection (a), employment-based immigrant visas shall be made available to an alien having nonimmigrant status described in section 101(a)(15)(H)(v)(a) upon the filing of a petition for such a visa—

''(A) by the alien's employer; or

''(B) by the alien, if the alien has maintained such nonimmigrant status in the United States for a cumulative total of 4 years.

''(2) An alien having nonimmigrant status described in section 101(a)(15)(H)(v)(a) may not apply for adjustment of status under this section unless the alien—

''(A) is physically present in the United States; and

''(B) the alien establishes that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(3) An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(4) Filing a petition under paragraph (1) on behalf of an alien or otherwise seeking permanent residence in the United States for such alien shall not constitute evidence of the alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(v)(a).

''(5) The limitation under section 302(d) regarding the period of authorized stay shall not apply to any alien having nonimmigrant status under section 101(a)(15)(H)(v)(a) if—

''(A) a labor certification petition filed under section 203(b) on behalf of such alien is pending; or

''(B) an immigrant visa petition filed under section 204(b) on behalf of such alien is pending.

''(6) The Secretary of Homeland Security shall extend the stay of an alien who qualifies for an exemption under paragraph (5) in 1-year increments until a final decision is made on the alien's lawful permanent residence.

''(7) Nothing in this subsection shall be construed to prevent an alien having nonimmigrant status described in section 101(a)(15)(H)(v)(a) from filing an application for adjustment of status under this section in accordance with any other provision of law.''.

SEC. 307. ESSENTIAL WORKER VISA PROGRAM TASK FORCE.

(a) ESTABLISHMENT OF TASK FORCE.—

(1) IN GENERAL.—There is established a task force to be known as the Essential Worker Visa Program Task Force (referred to in this section as the ''Task Force'').

(2) PURPOSES.—The purposes of the Task Force are—

(A) to study the Essential Worker Visa Program (referred to in this section as the ''Program'') established under this title; and

(B) to make recommendations to Congress with respect to such program.

(3) MEMBERSHIP.—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 Democratic Party in the Senate, in consultation with the leader of the Democratic 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.

(4) QUALIFICATIONS.—

(A) IN GENERAL.—Members of the Task Force shall be—

(i) individuals with expertise in economics, demography, labor, business, or immigration or other pertinent qualifications or experience; and

(ii) representative of a broad cross-section of perspectives within the United States, including the public and private sectors and academia;

(B) POLITICAL AFFILIATION.—Not more than 5 members of the Task Force may be members of the same political party.

(C) 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.

(5) DEADLINE FOR APPOINTMENT.—All members of the Task Force shall be appointed not later than 6 months after the Program has been implemented.

(6) 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.

(7) MEETINGS.—

(A) INITIAL MEETING.—The Task Force shall meet and begin the operations of the Task Force as soon as practicable.

(B) SUBSEQUENT MEETINGS.—After its initial meeting, the Task Force shall meet upon the call of the chairman or a majority of its members.

(8) QUORUM.—Six members of the Task Force shall constitute a quorum.

(b) DUTIES.—The Task Force shall examine and make recommendations regarding the Program, including recommendations regarding—

(1) the development and implementation of the Program;

(2) the criteria for the admission of temporary workers under the Program;

(3) the formula for determining the yearly numerical limitations of the Program;

(4) the impact of the Program on immigration;

(5) the impact of the Program on the United States workforce and United States businesses; and

(6) any other matters regarding the Program that the Task Force considers appropriate.

(c) INFORMATION AND ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION FROM FEDERAL AGENCIES.—The Task Force may seek directly from any Federal department or agency such information, including suggestions, estimates, and statistics, as the Task Force considers necessary to carry out the provisions of this section. Upon request of the Task Force, the head of such department or agency shall furnish such information to the Task Force.

(2) ASSISTANCE FROM FEDERAL AGENCIES.—The Administrator of General Services shall, on a reimbursable base, provide the Task Force with administrative support and other services for the performance of the Task Force's functions. The departments and agencies of the United States may provide the Task Force with such services, funds, facilities, staff, and other support services as they determine advisable and as authorized by law.

(d) REPORTS.—

(1) INITIAL REPORT.—Not later than 2 years after the Program has been implemented, the Task Force shall submit a report to Congress, the Secretary of State, the Secretary of Labor, and the Secretary of Homeland Security that contains—

(A) findings with respect to the duties of the Task Force;

(B) recommendations for improving the Program; and

(C) suggestions for legislative or administrative action to implement the Task Force recommendations.

(2) FINAL REPORT.—Not later than 4 years after the submission of the initial report under paragraph (1), the Task Force shall submit a final report to Congress, the Secretary of State, the Secretary of Labor, and the Secretary of Homeland Security that contains additional findings, recommendations, and suggestions, as described in paragraph (1).

SEC. 308. WILLING WORKER-WILLING EMPLOYER ELECTRONIC JOB REGISTRY.

(a) ESTABLISHMENT.—The Secretary of Labor shall direct the coordination and modification of the national system of public labor exchange services (commonly known as ''America's Job Bank'') in existence on the date of enactment of this Act to provide information on essential worker employment opportunities available to United States workers and nonimmigrant workers under section 101(a)(15)(H)(v)(a) of the Immigration and Nationality Act, as added by this Act.

(b) RECRUITMENT OF UNITED STATES WORKERS.—Before the completion of evidence of employment for a potential nonimmigrant worker under section 101(a)(15)(H)(v)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(v)(a), an employer shall attest that the employer has posted in the Job Registry for not less than 30 days in order to recruit United States workers. An employer shall maintain records for not less than 1 year demonstrating why United States workers who applied were not hired.

(c) OVERSIGHT AND MAINTENANCE OF RECORDS.—The Secretary of Labor shall maintain electronic job registry records, as established by regulation, for the purpose of audit or investigation.

(d) ACCESS TO JOB REGISTRY.—

(1) CIRCULATION IN INTERSTATE EMPLOYMENT SERVICE SYSTEM.—The Secretary of Labor shall ensure that job opportunities advertised on the electronic job registry established under this section are accessible by the State workforce agencies, which may further disseminate job opportunity information to other interested parties.

(2) INTERNET.—The Secretary of Labor shall ensure that the Internet-based electronic job registry established or approved under this section may be accessed by workers, employers, labor organizations, and other interested parties.

SEC. 309. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of State such sums as may be necessary to carry out this title and the amendments made by this title for the period beginning on the date of enactment of this Act and ending on the last day of the sixth fiscal year beginning after the effective date of the regulations promulgated by the Secretary to implement this title.

TITLE IV—ENFORCEMENT

SEC. 401. DOCUMENT AND VISA REQUIREMENTS.

(a) IN GENERAL.—Section 221(a) of the Immigration and Nationality Act (8 U.S.C. 1201(a)) is amended by adding at the end the following:

''(3) VISAS AND IMMIGRATION RELATED DOCUMENT REQUIREMENTS.—

''(A) Visas issued by the Secretary of State and immigration related documents issued by the Secretary of State or the Secretary of Homeland Security shall comply with authentication and biometric standards recognized by domestic and international standards organizations.

''(B) Such visas and documents shall—

''(i) be machine-readable and tamper-resistant;

''(ii) use biometric identifiers that are consistent with the requirements of section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732), and represent the benefits and status set forth in such section;

''(iii) comply with the biometric and document identifying standards established by the International Civil Aviation Organization; and

''(iv) be compatible with the United States Visitor and Immigrant Status Indicator Technology and the employment verification system established under section 274E.

''(C) The information contained on the visas or immigration related documents described in subparagraph (B) shall include—

''(i) the alien's name, date and place of birth, alien registration or visa number, and, if applicable, social security number;

''(ii) the alien's citizenship and immigration status in the United States; and

''(iii) the date that such alien's authorization to work in the United States expires, if appropriate.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date that is 6 months after the date of enactment of this Act.

SEC. 402. EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.

(a) IN GENERAL.—Chapter 8 of title II of the Immigration and Nationality Act (8 U.S.C. 1321 et seq.) is amended by inserting after section 274D the following:

''EMPLOYMENT ELIGIBILITY

''SEC. 274E. (a) EMPLOYMENT ELIGIBILITY CONFIRMATION SYSTEM.—

''(1) IN GENERAL.—The Commissioner of Social Security, in consultation and coordination with the Secretary of Homeland Security, shall establish an Employment Eligibility Confirmation System (referred to in

this section as the 'System') through which the Commissioner responds to inquiries made by employers who have hired individuals concerning each individual's identity and employment authorization.

''(2) MAINTENANCE OF RECORDS.—The Commissioner shall electronically maintain records by which compliance under the System may be verified.

''(3) OBJECTIVES OF THE SYSTEM.—The System shall—

''(A) facilitate the eventual transition for all businesses from the employer verification system established in section 274A with the System;

''(B) utilize, as a central feature of the System, machine-readable documents that contain encrypted electronic information to verify employment eligibility; and

''(C) provide for the evidence of employment required under section 218A.

''(4) INITIAL RESPONSE.—The System shall provide—

''(A) confirmation or a tentative nonconfirmation of an individual's identity and employment eligibility not later than 1 working day after the initial inquiry; and

''(B) an appropriate code indicating such confirmation or tentative nonconfirmation.

''(5) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONCONFIRMATION.—

''(A) ESTABLISHMENT.—For cases of tentative nonconfirmation, the Commissioner of Social Security, in consultation and coordination with the Secretary of Homeland Security, shall establish a secondary verification process. The employer shall make the secondary verification inquiry not later than 10 days after receiving a tentative nonconfirmation.

''(B) DISCREPANCIES.—If an employee chooses to contest a secondary nonconfirmation, the employer shall provide the employee with a referral letter and instruct the employee to visit an office of the Department of Homeland Security or the Social Security Administration to resolve the discrepancy not later than 10 working days after the receipt of such referral letter in order to obtain confirmation.

''(C) FAILURE TO CONTEST.—An individual's failure to contest a confirmation shall not constitute knowledge (as defined in section 274a.1(l) of title 8, Code of Federal Regulations.

''(6) DESIGN AND OPERATION OF SYSTEM.—The System shall be designed, implemented, and operated—

''(A) to maximize its reliability and ease of use consistent with protecting the privacy and security of the underlying information through technical and physical safeguards;

''(B) to allow employers to verify that a newly hired individual is authorized to be employed;

''(C) to permit individuals to—

''(i) view their own records in order to ensure the accuracy of such records; and

''(ii) contact the appropriate agency to correct any errors through an expedited process established by the Commissioner of Social Security, in consultation and coordination with the Secretary of Homeland Security; and

''(D) to prevent discrimination based on national origin or citizenship status under section 274B.

''(7) UNLAWFUL USES OF SYSTEM.—It shall be an unlawful immigration-related employment practice—

''(A) for employers or other third parties to use the System selectively or without authorization;

''(B) to use the System prior to an offer of employment;

''(C) to use the System to exclude certain individuals from consideration for employment as a result of a perceived likelihood that additional verification will be required, beyond what is required for most job applicants;

''(D) to use the System to deny certain employment benefits, otherwise interfere with the labor rights of employees, or any other unlawful employment practice; or

''(E) to take adverse action against any person, including terminating or suspending an employee who has received a tentative nonconfirmation.

''(b) EMPLOYMENT ELIGIBILITY DATABASE.—

''(1) REQUIREMENT.—The Commissioner of Social Security, in consultation and coordination with the Secretary of Homeland Security and other appropriate agencies, shall design, implement, and maintain an Employment Eligibility Database (referred to in this section as the 'Database') as described in this subsection.

''(2) DATA.—The Database shall include, for each individual who is not a citizen or national of the United States, but is authorized or seeking authorization to be employed in the United States, the individual's—

''(A) country of origin;

''(B) immigration status;

''(C) employment eligibility;

''(D) occupation;

''(E) metropolitan statistical area of employment;

''(F) annual compensation paid;

''(G) period of employment eligibility;

''(H) employment commencement date; and

''(I) employment termination date.

''(3) REVERIFICATION OF EMPLOYMENT ELIGIBILITY.—The Commissioner of Social Security shall prescribe, by regulation, a system to annually reverify the employment eligibility of each individual described in this section—

''(A) by utilizing the machine-readable documents described in section 221(a)(3); or

''(B) if machine-readable documents are not available, by telephonic or electronic communication.

''(4) CONFIDENTIALITY.—

''(A) ACCESS TO DATABASE.—No officer or employee of any agency or department of the United States, other than individuals responsible for the verification of employment eligibility or for the evaluation of the employment verification program at the Social Security Administration, the Department of Homeland Security, and the Department of Labor, may have access to any information contained in the Database.

''(B) PROTECTION FROM UNAUTHORIZED DISCLOSURE.—Information in the Database shall be adequately protected against unauthorized disclosure for other purposes, as provided in regulations established by the Commissioner of Social Security, in consultation with the Secretary of Homeland Security and the Secretary of Labor.

''(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to design, implement, and maintain the Database.

''(c) GRADUAL IMPLEMENTATION.—The Commissioner of Social Security, in coordination with the Secretary of Homeland Security and the Secretary of Labor shall develop a plan to phase all workers into the Database and phase out the employer verification system established in section 274A over a period of time that the Commissioner determines to be appropriate.

''(d) EMPLOYER RESPONSIBILITIES.—Each employer shall—

''(1) notify employees and prospective employees of the use of the System and that the System may be used for immigration enforcement purposes;

''(2) verify the identification and employment authorization status for newly hired individuals described in section 101(a)(15)(H)(v)(a) not later than 3 days after the date of hire;

''(3) use—

''(A) a machine-readable document described in subsection (a)(3)(B); or

''(B) the telephonic or electronic system to access the Database;

''(4) provide, for each employer hired, the occupation, metropolitan statistical area of employment, and annual compensation paid;

''(5) retain the code received indicating confirmation or nonconfirmation, for use in investigations described in section 212(n)(2); and

''(6) provide a copy of the employment verification receipt to such employees.

''(e) GOOD-FAITH COMPLIANCE.—

''(1) AFFIRMATIVE DEFENSE.—A person or entity that establishes good faith compliance with the requirements of this section with respect to the employment of an individual in the United States has established an affirmative defense that the person or entity has not violated this section.

''(2) LIMITATION.—Paragraph (1) shall not apply if a person or entity engages in an unlawful immigration-related employment practice described in subsection (a)(7).''.

(b) INTERIM DIRECTIVE.—Before the implementation of the Employment Eligibility Confirmation System (referred to in this section as the ''System'') established under section 274E of the Immigration and Nationality Act, as added by subsection (a), the Commissioner of Social Security, in coordination with the Secretary of Homeland Security, shall, to the maximum extent practicable, implement an interim system to confirm employment eligibility that is consistent with the provisions of such section.

(c) REPORTS.—

(1) IN GENERAL.—Not later than 3 months after the last day of the second year and of the third year that the System is in effect, the Comptroller General of the United States 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 System.

(2) CONTENTS.—Each report submitted under paragraph (1) shall include—

(A) an assessment of the impact of the System on the employment of unauthorized workers;

(B) an assessment of the accuracy of the Employment Eligibility Database maintained by the Department of Homeland Security and Social Security Administration databases, and timeliness and accuracy of responses from the Department of Homeland Security and the Social Security Administration to employers;

(C) an assessment of the privacy, confidentiality, and system security of the System;

(D) assess whether the System is being implemented in a nondiscriminatory manner; and

(E) include recommendations on whether or not the System should be modified.

SEC. 403. IMPROVED ENTRY AND EXIT DATA SYSTEM.

Section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in subsection (b)—

(A) in paragraph (1)(C), by striking ''Justice'' and inserting ''Homeland Security'';

(B) in paragraph (4), by striking ''and'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(6) collects the biometric machine-readable information from an alien's visa or immigration-related document described in section 221(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1201(a)(3) at the time an alien arrives in the United States and at the time an alien departs from the United States to determine if such alien is entering, or is present in, the United States unlawfully.''; and

(3) in subsection (f)(1), by striking ''Departments of Justice and State'' and inserting ''Department of Homeland Security and the Department of State''.

SEC. 404. DEPARTMENT OF LABOR INVESTIGATIVE AUTHORITIES.

Section 212(n)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(2)) is amended—

(1) by redesignating subparagraph (H) as subparagraph (J); and

(2) by inserting after subparagraph (G) the following:

''(H)(i) The Secretary of Labor may initiate an investigation of any employer that employs nonimmigrants described in section 101(a)(15)(H)(v)(a) if the Secretary, or the Secretary's designee—

''(I) certifies that reasonable cause exists to believe that the employer is out of compliance with the Secure America and Orderly Immigration Act or section 274E; and

''(II) approves the commencement of the investigation.

''(ii) In determining whether reasonable cause exists to initiate an investigation under this section, the Secretary shall—

''(I) monitor the Willing Worker-Willing Employer Electronic Job Registry;

''(II) monitor the Employment Eligibility Confirmation System, taking into consideration whether—

''(aa) an employer's submissions to the System generate a high volume of tentative nonconfirmation responses relative to other comparable employers;

''(bb) an employer rarely or never screens hired individuals;

''(cc) individuals employed by an employer rarely or never pursue a secondary verification process as established in section 274E; or

''(dd) any other indicators of illicit, inappropriate or discriminatory use of the System, especially those described in section 274E(a)(6)(D), exist; and

''(III) consider any additional evidence that the Secretary determines appropriate.

''(iii) Absent other evidence of noncompliance, an investigation under this subparagraph should not be initiated for lack of completeness or obvious inaccuracies by the employer in complying with section 101(a)(15)(H)(v)(a).''.

SEC. 405. PROTECTION OF EMPLOYMENT RIGHTS.

The Secretary and the Secretary of Homeland Security shall establish a process under which a nonimmigrant worker described in clause (ii)(b) or (v)(a) of section 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)) who files a nonfrivolous complaint regarding a violation of this section and is otherwise eligible to remain and work in the United States may be allowed to seek other appropriate employment in the United States with an employer for a period not to exceed the maximum period of stay authorized for that nonimmigrant classification.

SEC. 406. INCREASED FINES FOR PROHIBITED BEHAVIOR.

Section 274B(g)(2)(B)(iv) of the Immigration and Nationality Act (8 U.S.C. 1324b(g)(2)(B)(iv)) is amended—

(1) in subclause (I), by striking ''not less than $250 and not more than $2,000'' and inserting ''not less than $500 and not more than $4,000'';

(2) in subclause (II), by striking ''not less than $2,000 and not more than $5,000'' and inserting ''not less than $4,000 and not more than $10,000''; and

(3) in subclause (III), by striking ''not less than $3,000 and not more than $10,000'' and inserting ''not less than $6,000 and not more than $20,000''.

TITLE V—PROMOTING CIRCULAR MIGRATION PATTERNS

SEC. 501. LABOR MIGRATION FACILITATION PROGRAMS.

(a) AUTHORITY FOR PROGRAM.—

(1) IN GENERAL.—The Secretary of State is authorized to enter into an agreement to establish and administer a labor migration facilitation program jointly with the appropriate official of a foreign government whose citizens participate in the temporary worker program authorized under section 101(a)(15)(H)(v)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(v)(a)).

(2) PRIORITY.—In establishing programs under subsection (a), the Secretary of State shall place a priority on establishing such programs with foreign governments that have a large number of nationals working as temporary workers in the United States under such section 101(a)(15)(H)(v)(a). The Secretary shall enter into such agreements not later than 3 months after the date of enactment of this Act or as soon thereafter as is practicable.

(3) ELEMENTS OF PROGRAM.—A program established under paragraph (1) may provide for—

(A) the Secretary of State, in conjunction with the Secretary of Homeland Security and the Secretary of Labor, to confer with a foreign government—

(i) to establish and implement a program to assist temporary workers from such a country to obtain nonimmigrant status under such section 101(a)(15)(H)(v)(a);

(ii) to establish programs to create economic incentives for aliens to return to their home country;

(B) the foreign government to monitor the participation of its nationals in such a temporary worker program, including departure from and return to a foreign country;

(C) the foreign government to develop and promote a reintegration program available to such individuals upon their return from the United States;

(D) the foreign government to promote or facilitate travel of such individuals between the country of origin and the United States; and

(E) any other matters that the foreign government and United States find appropriate to enable such individuals to maintain strong ties to their country of origin.

SEC. 502. BILATERAL EFFORTS WITH MEXICO TO REDUCE MIGRATION PRESSURES AND COSTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Migration from Mexico to the United States is directly linked to the degree of economic opportunity and the standard of living in Mexico.

(2) Mexico comprises a prime source of migration to the United States.

(3) Remittances from Mexican citizens working in the United States reached a record high of nearly $17,000,000,000 in 2004.

(4) Migration patterns may be reduced from Mexico to the United States by addressing the degree of economic opportunity available to Mexican citizens.

(5) Many Mexican assets are held extra-legally and cannot be readily used as collateral for loans.

(6) A majority of Mexican businesses are small or medium size with limited access to financial capital.

(7) These factors constitute a major impediment to broad-based economic growth in Mexico.

(8) Approximately 20 percent of Mexico's population works in agriculture, with the majority of this population working on small farms and few on large commercial enterprises.

(9) The Partnership for Prosperity is a bilateral initiative launched jointly by the President of the United States and the President of Mexico in 2001, which aims to boost the social and economic standards of Mexican citizens, particularly in regions where economic growth has lagged and emigration has increased.

(10) The Presidents of Mexico and the United States and the Prime Minister of Canada, at their trilateral summit on March 23, 2005, agreed to promote economic growth, competitiveness, and quality of life in the agreement on Security and Prosperity Partnership of North America.

(b) SENSE OF CONGRESS REGARDING PARTNERSHIP FOR PROSPERITY.—It is the sense of Congress that the United States and Mexico should accelerate the implementation of the Partnership for Prosperity to help generate economic growth and improve the standard of living in Mexico, which will lead to reduced migration, by—

(1) increasing access for poor and under served populations in Mexico to the financial services sector, including credit unions;

(2) assisting Mexican efforts to formalize its extra-legal sector, including the issuance of formal land titles, to enable Mexican citizens to use their assets to procure capital;

(3) facilitating Mexican efforts to establish an effective rural lending system for small- and medium-sized farmers that will—

(A) provide long term credit to borrowers;

(B) develop a viable network of regional and local intermediary lending institutions; and

(C) extend financing for alternative rural economic activities beyond direct agricultural production;

(4) expanding efforts to reduce the transaction costs of remittance flows in order to increase the pool of savings available to help finance domestic investment in Mexico;

(5) encouraging Mexican corporations to adopt internationally recognized corporate governance practices, including anti-corruption and transparency principles;

(6) enhancing Mexican efforts to strengthen governance at all levels, including efforts to improve transparency and accountability, and to eliminate corruption, which is the single biggest obstacle to development;

(7) assisting the Government of Mexico in implementing all provisions of the Inter-American Convention Against Corruption (ratified by Mexico on May 27, 1997) and urging the Government of Mexico to participate fully in the Convention's formal implementation monitoring mechanism;

(8) helping the Government of Mexico to strengthen education and training opportunities throughout the country, with a particular emphasis on improving rural education; and

(9) encouraging the Government of Mexico to create incentives for persons who have migrated to the United States to return to Mexico.

(c) SENSE OF CONGRESS REGARDING BILATERAL PARTNERSHIP ON HEALTH CARE.—It is the sense of Congress that the Government of the United States and the Government of Mexico should enter into a partnership to examine uncompensated and burdensome health care costs incurred by the United States due to legal and illegal immigration, including—

(1) increasing health care access for poor and under served populations in Mexico;

(2) assisting Mexico in increasing its emergency and trauma health care facilities along the border, with emphasis on expanding prenatal care in the United States-Mexico border region;

(3) facilitating the return of stable, incapacitated workers temporarily employed in the United States to Mexico in order to receive extended, long-term care in their home country; and

(4) helping the Government of Mexico to establish a program with the private sector to cover the health care needs of Mexican nationals temporarily employed in the United States.

TITLE VI—FAMILY UNITY AND BACKLOG REDUCTION

SEC. 601. ELIMINATION OF EXISTING BACKLOGS.

(a) FAMILY-SPONSORED IMMIGRANTS.—Section 201(c) of the Immigration and Nationality Act (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; and

''(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 years; and

''(B) the number of visas described in subparagraph (A) that were issued after fiscal year 2005.''.

(b) EMPLOYMENT-BASED IMMIGRANTS.—Section 201(d) of the Immigration and Nationality Act (8 U.S.C. 1151(d)) is amended to read as follows:

''(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED IMMIGRANTS.—The worldwide level of employment-based immigrants under this subsection for a fiscal year is equal to the sum of—

''(1) 290,000;

''(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; and

''(3) the difference between—

''(A) 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 years; and

''(B) the number of visas described in subparagraph (A) that were issued after fiscal year 2005.''.

SEC. 602. COUNTRY LIMITS.

Section 202(a) of the Immigration and Nationality Act (8 U.S.C. 1152(a)) is amended—

(1) in paragraph (2)—

(A) by striking '', (4), and (5)'' and inserting ''and (4)''; and

(B) by striking ''7 percent (in the case of a single foreign state) or 2 percent'' and inserting ''10 percent (in the case of a single foreign state) or 5 percent''; and

(2) by striking paragraph (5).

SEC. 603. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY-SPONSORED IMMIGRANTS.—Section 203(a) of the Immigration and Nationality Act (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 10 percent of such worldwide level plus any visas not required for the class specified in paragraph (4).

''(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—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—

''(A) who are the spouses or children of an alien lawfully admitted for permanent residence, which visas shall constitute not less than 77 percent of the visas allocated under this paragraph; or

''(B) who are the unmarried sons or daughters of an alien lawfully admitted for permanent residence.

''(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 10 percent of such worldwide level plus 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 citizens of the United States who are at least 21 years of age shall be allocated visas in a quantity not to exceed 30 percent of the worldwide level plus any visas not required for the classes specified in paragraphs (1) through (3).''.

(b) PREFERENCE ALLOCATION FOR EMPLOYMENT-BASED IMMIGRANTS.—Section 203(b) of the Immigration and Nationality Act (8 U.S.C. 1153(b)) is amended—

(1) in paragraph (1), by striking ''28.6 percent'' and inserting ''20 percent'';

(2) in paragraph (2)(A), by striking ''28.6 percent'' and inserting ''20 percent'';

(3) in paragraph (3)(A)—

(A) by striking ''28.6 percent'' and inserting ''35 percent''; and

(B) by striking clause (iii);

(4) by striking paragraph (4);

(5) by redesignating paragraph (5) as paragraph (4);

(6) in paragraph (4)(A), as redesignated, by striking ''7.1 percent'' and inserting ''5 percent'';

(7) by inserting after paragraph (4), as redesignated, the following:

''(5) OTHER WORKERS.—Visas shall be made available, in a number not to exceed 30 percent of such worldwide level, plus any visa numbers not required for the classes specified in paragraphs (1) through (4), to qualified immigrants who are capable, at the time of petitioning for classification under this paragraph, of performing unskilled labor that is not of a temporary or seasonal nature, for which qualified workers are determined to be unavailable in the United States, or to nonimmigrants under section 101(a)(15)(H)(v)(a).''; and

(8) by striking paragraph (6).

(c) CONFORMING AMENDMENTS.—

(1) DEFINITION OF SPECIAL IMMIGRANT.—Section 101(a)(27)(M) of the Immigration and Nationality Act (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 (8 U.S.C. 1153 note) is repealed.

SEC. 604. RELIEF FOR CHILDREN AND WIDOWS.

(a) IN GENERAL.—Section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)) is amended by striking ''spouses, and parents of a citizen of the United States'' and inserting ''(and their children who are accompanying or following to join them), the spouses (and their children who are accompanying or following to join them), and the parents of a citizen of the United States (and their children who are accompanying or following to join them)''.

(b) PETITION.—Section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154 (a)(1)(A)(ii) is amended by inserting ''or an alien child or alien parent described in the third sentence of section 201(b)(2)(A)(i)'' after ''section 201(b)(2)(A)(i)''.

(c) ADJUSTMENT OF STATUS.—Section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) is amended by adding at the end the following:

''(n) APPLICATIONS FOR ADJUSTMENT OF STATUS BY SURVIVING SPOUSES, CHILDREN, AND PARENTS.—

''(1) IN GENERAL.—Notwithstanding subsections (a) and (c) (except subsection (c)(6)), any alien described in paragraph (2) who applied for adjustment of status prior to the death of the qualifying relative, may have such application adjudicated as if such death had not occurred.

''(2) ALIEN DESCRIBED.—An alien described in this paragraph is an alien who—

''(A) is an immediate relative (as defined in section 201(b)(2)(A)(i));

''(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)).''.

(d) TRANSITION PERIOD.—Notwithstanding a denial of an application for adjustment of status not more than 2 years before the date of enactment of this Act, in the case of an alien whose qualifying relative died before the date of enactment of this Act, such application may be renewed by the alien through a motion to reopen, without fee, filed not later than 1 year after the date of enactment of this Act.

SEC. 605. AMENDING THE AFFIDAVIT OF SUPPORT REQUIREMENTS.

Section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) is amended—

(1) in subsection (a)(1)(A), by striking ''125'' and inserting ''100''; and

(2) in subsection (f), by striking ''125'' each place it appears and inserting ''100''.

SEC. 606. DISCRETIONARY AUTHORITY.

Section 212(i) of the Immigration and Nationality Act (8 U.S.C. 1182(i)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2)(A) The Secretary of Homeland Security may waive the application of subsection (a)(6)(C)—

''(i) in the case of an immigrant who is the spouse, parent, son, or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if the Secretary of Homeland Security determines that the refusal of admission to the United States of such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse, child, son, daughter, or parent of such an alien; or

''(ii) in the case of an alien granted classification under clause (iii) or (iv) of section 204(a)(1)(A) or clause (ii) or (iii) of section 204(a)(1)(B), the alien demonstrates extreme hardship to the alien or the alien's parent or child if, such parent or child is a United States citizen, a lawful permanent resident, or a qualified alien.

''(B) An alien who is granted a waiver under subparagraph (A) shall pay a $2,000 fine.''.

SEC. 607. FAMILY UNITY.

Section 212(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)) is amended—

(1) in subparagraph (B)(iii)(I), by striking ''18'' and inserting ''21''; and

(2) in subparagraph (C)(ii)—

(A) by redesignating subclauses (1) and (2) as subclauses (I) and (II); and

(B) in subclause (II), as redesignated, by redesignating items (A), (B), (C), and (D) as items (aa), (bb), (cc), and (dd); and

(3) 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 sections 201 and 203 if such petition was filed on or before the date of introduction of Secure America and Orderly Immigration Act.

''(ii) FINE.—An alien who is granted a waiver under clause (i) shall pay a $2,000 fine.''.

TITLE VII—H–5B NONIMMIGRANTS

SEC. 701. H–5B NONIMMIGRANTS.

(a) IN GENERAL.—Chapter 5 of title II of the Immigration and Nationality Act (8 U.S.C. 1255 et seq.) is amended by adding after section 250 the following:

''H–5B NONIMMIGRANTS

''SEC. 250A. (a) IN GENERAL.—The Secretary of Homeland Security shall adjust the status of an alien to that of a nonimmigrant under section 101(a)(15)(H)(v)(b) if the alien—

''(1) submits an application for such adjustment; and

''(2) meets the requirements of this section.

''(b) PRESENCE IN THE UNITED STATES.—The alien shall establish that the alien—

''(1) was present in the United States before the date on which the Secure America and Orderly Immigration Act was introduced, and has been continuously in the United States since such date; and

''(2) was not legally present in the United States on the date on which the Secure America and Orderly Immigration Act was introduced under any classification set forth in section 101(a)(15).

''(c) SPOUSES AND CHILDREN.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall, if the person is otherwise eligible under subsection (b)—

''(1) adjust the status to that of a nonimmigrant under section 101(a)(15)(H)(v)(b) for, or provide a nonimmigrant visa to, the spouse or child of an alien who is provided nonimmigrant status under section 101(a)(15)(H)(v)(b); or

''(2) adjust the status to that of a nonimmigrant under section 101(a)(15)(H)(v)(b) for an alien who, before the date on which the Secure America and Orderly Immigration Act was introduced in Congress, was the spouse or child of an alien who is provided nonimmigrant status under section 101(a)(15)(H)(v)(b), or is eligible for such status, if—

''(A) the termination of the qualifying relationship was connected to domestic violence; and

''(B) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent alien who is provided nonimmigrant status under section 101(a)(15)(H)(v)(b).

''(d) OTHER CRITERIA.—

''(1) IN GENERAL.—An alien may be granted nonimmigrant status under section 101(a)(15)(H)(v)(b), or granted status as the spouse or child of an alien eligible for such status under subsection (c), if the alien establishes that the alien—

''(A) is not inadmissible to the United States under section 212(a), except as provided in paragraph (2); or

''(B) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.

''(2) GROUNDS OF INADMISSIBILITY.—In determining an alien's admissibility under paragraph (1)(A)—

''(A) paragraphs (5), (6)(A), (6)(B), (6)(C), (6)(F), (6)(G), (7), (9), and (10)(B) of section 212(a) shall not apply for conduct that occurred before the date on which the Secure America and Orderly Immigration Act was introduced;

''(B) the Secretary of Homeland Security may not waive—

''(i) subparagraph (A), (B), (C), (E), (G), (H), or (I) of section 212(a)(2) (relating to criminals);

''(ii) section 212(a)(3) (relating to security and related grounds); or

''(iii) subparagraph (A) or (C) of section 212(a)(10) (relating to polygamists and child abductors);

''(C) for conduct that occurred before the date on which the Secure America and Orderly Immigration Act was introduced, the Secretary of Homeland Security may waive the application of any provision of section 212(a) not listed in subparagraph (B) on behalf of an individual alien for humanitarian purposes, to ensure family unity, or when such waiver is otherwise in the public interest; and

''(D) nothing in this paragraph shall be construed as affecting the authority of the Secretary of Homeland Security other than under this paragraph to waive the provisions of section 212(a).

''(3) APPLICABILITY OF OTHER PROVISIONS.—Sections 240B(d) and 241(a)(5) shall not apply to an alien who is applying for adjustment of status in accordance with this title for conduct that occurred before the date on which the Secure America and Orderly Immigration Act was introduced.

''(e) EMPLOYMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security may not adjust the status of an alien to that of a nonimmigrant under section 101(a)(15)(H)(v)(b) unless the alien establishes that the alien—

''(A) was employed in the United States, whether full time, part time, seasonally, or self-employed, before the date on which the Secure America and Orderly Immigration Act was introduced; and

''(B) has been employed in the United States since that date.

''(2) EVIDENCE OF EMPLOYMENT.—

''(A) CONCLUSIVE DOCUMENTS.—An alien may conclusively establish employment status in compliance with paragraph (1) by submitting to the Secretary of Homeland Security records demonstrating such employment maintained by—

''(i) the Social Security Administration, Internal Revenue Service, or by any other Federal, State, or local government agency;

''(ii) an employer; or

''(iii) a labor union, day labor center, or an organization that assists workers in matters related to employment.

''(B) OTHER DOCUMENTS.—An alien who is unable to submit a document described in clauses (i) through (iii) of subparagraph (A) may satisfy the requirement in paragraph (1) by submitting to the Secretary at least 2 other types of reliable documents that provide evidence of employment, including—

''(i) bank records;

''(ii) business records;

''(iii) sworn affidavits from nonrelatives who have direct knowledge of the alien's work; or

''(iv) remittance records.

''(3) INTENT OF CONGRESS.—It is the intent of Congress that the requirement in this subsection be interpreted and implemented in a manner that recognizes and takes into account the difficulties encountered by aliens in obtaining evidence of employment due to the undocumented status of the alien.

''(4) BURDEN OF PROOF.—An alien described in paragraph (1) who is applying for adjustment of status under this section has the burden of proving by a preponderance of the evidence that the alien has satisfied the requirements of this subsection. An alien may meet such burden of proof by producing sufficient evidence to demonstrate such employment as a matter of reasonable inference.

''(f) SPECIAL RULES FOR MINORS AND INDIVIDUALS WHO ENTERED AS MINORS.—The employment requirements under this section shall not apply to any alien under 21 years of age.

''(g) EDUCATION PERMITTED.—An alien may satisfy the employment requirements under this section, in whole or in part, by full-time attendance at—

''(1) an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); or

''(2) a secondary school (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)).

''(h) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—

''(1) SUBMISSION OF FINGERPRINTS.—An alien may not be granted nonimmigrant status under section 101(a)(15)(H)(v)(b), or granted status as the spouse or child of an alien eligible for such status under subsection (c), unless the alien submits fingerprints in accordance with procedures established by the Secretary of Homeland Security.

''(2) BACKGROUND CHECKS.—The Secretary of Homeland Security shall utilize fingerprints and other data provided by the alien to conduct a background check of such alien relating to criminal, national security, or other law enforcement actions that would render the alien ineligible for adjustment of status as described in this section.

''(3) EXPEDITIOUS PROCESSING.—The background checks required under paragraph (2) shall be conducted as expeditiously as possible.

''(i) PERIOD OF AUTHORIZED STAY AND APPLICATION FEE AND FINE.—

''(1) PERIOD OF AUTHORIZED STAY.—

''(A) IN GENERAL.—The period of authorized stay for a nonimmigrant described in section 101(a)(15)(H)(v)(b) shall be 6 years.

''(B) LIMITATION.—The Secretary of Homeland Security may not authorize a change from such nonimmigrant classification to any other immigrant or nonimmigrant classification until the termination of the 6-year period described in subparagraph (A). The Secretary may only extend such period to accommodate the processing of an application for adjustment of status under section 245B.

''(2) APPLICATION FEE.—The Secretary of Homeland Security shall impose a fee for filing an application for adjustment of status under this section. Such fee shall be sufficient to cover the administrative and other expenses incurred in connection with the review of such applications.

''(3) FINES.—

''(A) IN GENERAL.—In addition to the fee required under paragraph (2), the Secretary of Homeland Security may accept an application for adjustment of status under this section only if the alien pays a $1,000 fine.

''(B) EXCEPTION.—Fines paid under this paragraph shall not be required from an alien under the age of 21.

''(4) COLLECTION OF FEES AND FINES.—All fees and fines collected under this section shall be deposited in the Treasury in accordance with section 286(w).

''(j) TREATMENT OF APPLICANTS.—

''(1) IN GENERAL.—An alien who files an application under this section, including the alien's spouse or child—

''(A) shall be granted employment authorization pending final adjudication of the alien's application for adjustment of status;

''(B) shall be granted permission to travel abroad;

''(C) may not be detained, determined inadmissible or deportable, or removed pending final adjudication of the alien's application for adjustment of status, unless the alien, through conduct or criminal conviction, becomes ineligible for such adjustment of status; and

''(D) may not be considered an unauthorized alien (as defined in section 274A(h)(3)) until employment authorization under subparagraph (A) is denied.

''(2) BEFORE APPLICATION PERIOD.—If an alien is apprehended after the date of enactment of this section, but before the promulgation of regulations pursuant to this section, and the alien can establish prima facie eligibility as a nonimmigrant under section 101(a)(15)(H)(v)(b), the Secretary of Homeland Security shall provide the alien with a reasonable opportunity, after promulgation of regulations, to file an application for adjustment.

''(3) DURING CERTAIN PROCEEDINGS.—Notwithstanding any provision of this Act, an alien who is in removal proceedings shall have an opportunity to apply for adjustment of status under this title unless a final administrative determination has been made.

''(4) RELATIONSHIPS OF APPLICATION TO CERTAIN ORDERS.—An alien who is present in the United States and has been ordered excluded, deported, removed, or ordered to depart voluntarily from the United States under any provision of this Act may, notwithstanding such order, apply for adjustment of status in accordance with this section. Such an alien shall not be required to file a separate motion to reopen, reconsider, or vacate the exclusion, deportation, removal, or voluntary departure order. If the Secretary of Homeland Security grants the application, the Secretary shall cancel such order. If the Secretary of Homeland Security renders a final administrative decision to deny the application, such order shall be effective and enforceable to the same extent as if the application had not been made.

''(k) ADMINISTRATIVE AND JUDICIAL REVIEW.—

''(1) ADMINISTRATIVE REVIEW.—

''(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary of Homeland Security shall establish an appellate authority within the United States Citizenship and Immigration Services to provide for a single level of administrative appellate review of a determination respecting an application for adjustment of status under this section.

''(B) STANDARD FOR REVIEW.—Administrative appellate review referred to in subparagraph (A) shall be based solely upon the administrative record established at the time of the determination on the application and upon the presentation of additional or newly discovered evidence during the time of the pending appeal.

''(2) JUDICIAL REVIEW.—

''(A) IN GENERAL.—There shall be judicial review in the Federal courts of appeal of the denial of an application for adjustment of status under this section. Notwithstanding any other provision of law, the standard for review of such a denial shall be governed by subparagraph (B).

''(B) STANDARD FOR JUDICIAL REVIEW.—Judicial review of a denial of an application under this section shall be based solely upon the administrative record established at the time of the review. The findings of fact and other determinations contained in the record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record, considered as a whole.

''(C) JURISDICTION OF COURTS.—

''(i) IN GENERAL.—Notwithstanding any other provision of law, the district courts of the United States shall have jurisdiction over any cause or claim arising from a pattern or practice of the Secretary of Homeland Security in the operation or implementation of this section that is arbitrary, capricious, or otherwise contrary to law, and may order any appropriate relief.

''(ii) REMEDIES.—A district court may order any appropriate relief under clause (i) if the court determines that resolution of such cause or claim will serve judicial and administrative efficiency or that a remedy would otherwise not be reasonably available or practicable.

''(3) STAY OF REMOVAL.—Aliens seeking administrative or judicial review under this subsection shall not be removed from the United States until a final decision is rendered establishing ineligibility under this section.

''(l) CONFIDENTIALITY OF INFORMATION.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, no Federal agency or bureau, nor any officer, employee, or agent of such agency or bureau, may—

''(A) use the information furnished by the applicant pursuant to an application filed under this section for any purpose other than to make a determination on the application;

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

''(C) permit anyone other than the sworn officers and employees of such agency or bureau to examine individual applications.

''(2) REQUIRED DISCLOSURES.—The Secretary of Homeland Security shall provide the information furnished pursuant to an application filed under this section, and any other information derived from such furnished information, to a duly recognized law enforcement entity in connection with a criminal investigation or prosecution or a national security investigation or prosecution, in each instance about an individual suspect or group of suspects, when such information is requested in writing by such entity.

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

''(m) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

''(1) CRIMINAL PENALTY.—

''(A) VIOLATION.—It shall be unlawful for any person—

''(i) to file or assist in filing an application for 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).

''(3) EXCEPTION.—Notwithstanding paragraphs (1) and (2), any alien or other entity (including an employer or union) that submits an employment record that contains incorrect data that the alien used in order to obtain such employment before the date on which the Secure America and Orderly Immigration Act is introduced, shall not, on that ground, be determined to have violated this section.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 250 the following:

''Sec. 250A. H–5B nonimmigrants.''.

SEC. 702. ADJUSTMENT OF STATUS FOR H–5B NONIMMIGRANTS.

(a) IN GENERAL.—Chapter 5 of title II of the Immigration and Nationality Act (8 U.S.C. 1255 et seq.) is amended by inserting after section 245A the following:

''ADJUSTMENT OF STATUS OF FORMER H–5B NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR LAWFUL PERMANENT RESIDENCE

''SEC. 245B. (a) REQUIREMENTS.—The Secretary shall adjust the status of an alien from nonimmigrant status under section 101(a)(15)(H)(v)(b) to that of an alien lawfully admitted for permanent residence under this section if the alien satisfies the following requirements:

''(1) COMPLETION OF EMPLOYMENT OR EDUCATION REQUIREMENT.—The alien establishes that the alien has been employed in the United States, either full time, part time, seasonally, or self-employed, or has met the education requirements of subsection (f) or (g) of section 250A during the period required by section 250A(e).

''(2) RULEMAKING.—The Secretary shall establish regulations for the timely filing and processing of applications for adjustment of status for nonimmigrants under section 101(a)(15)(H)(v)(b).

''(3) APPLICATION AND FEE.—The alien who applies for adjustment of status under this section shall pay the following:

''(A) APPLICATION FEE.—An alien who files an application under section 245B of the Immigration and Nationality Act, shall pay an application fee, set by the Secretary.

''(B) ADDITIONAL FINE.—Before the adjudication of an application for adjustment of status filed under this section, an alien who is at least 21 years of age shall pay a fine of $1,000.

''(4) ADMISSIBLE UNDER IMMIGRATION LAWS.—The alien establishes that the alien is not inadmissible under section 212(a), except for any provision of that section that is not applicable or waived under section 250A(d)(2).

''(5) MEDICAL EXAMINATION.—The alien shall undergo, at the alien's expense, an appropriate medical examination (including a determination of immunization status) that conforms to generally accepted professional standards of medical practice.

''(6) PAYMENT OF INCOME TAXES.—

''(A) IN GENERAL.—Not later than the date on which status is adjusted under this section, the alien shall establish the payment of all Federal income taxes owed for employment during the period of employment required by section 250A(e) by establishing that—

''(i) no such tax liability exists;

''(ii) all outstanding liabilities have been met; or

''(iii) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

''(B) IRS COOPERATION.—The Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all income taxes required by this paragraph.

''(7) BASIC CITIZENSHIP SKILLS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the alien shall establish that the alien—

''(i) meets the requirements of section 312; or

''(ii) is satisfactorily pursuing a course of study to achieve such an understanding of English and knowledge and understanding of the history and government of the United States.

''(B) RELATION TO NATURALIZATION EXAMINATION.—An alien who demonstrates that the alien meets the requirements of section 312 may be considered to have satisfied the requirements of that section for purposes of becoming naturalized as a citizen of the United States under title III.

''(8) SECURITY AND LAW ENFORCEMENT BACKGROUND CHECKS.—The Secretary shall conduct a security and law enforcement background check in accordance with procedures described in section 250A(h).

''(9) MILITARY SELECTIVE SERVICE.—The alien shall establish that if the alien is within the age period required under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), that such alien has registered under that Act.

''(b) TREATMENT OF SPOUSES AND CHILDREN.—

''(1) ADJUSTMENT OF STATUS.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall—

''(A) adjust the status to that of a lawful permanent resident under this section, or provide an immigrant visa to the spouse or child of an alien who adjusts status to that of a permanent resident under this section; or

''(B) adjust the status to that of a lawful permanent resident under this section for an alien who was the spouse or child of an alien who adjusts status or is eligible to adjust status to that of a permanent resident under section 245B in accordance with subsection (a), if—

''(i) the termination of the qualifying relationship was connected to domestic violence; and

''(ii) the spouse or child has been battered or subjected to extreme cruelty by the spouse or parent who adjusts status to that of a permanent resident under this section.

''(2) APPLICATION OF OTHER LAW.—In acting on applications filed under this subsection with respect to aliens who have been battered or subjected to extreme cruelty, the Secretary of Homeland Security shall apply the provisions of section 204(a)(1)(J) and the protections, prohibitions, and penalties under section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1367).

''(c) JUDICIAL REVIEW; CONFIDENTIALITY; PENALTIES.—Subsections (n), (o), and (p) of section 250A shall apply to this section.''.

(b) CLERICAL AMENDMENT.—The table of contents for the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) is amended by inserting after the item relating to section 245A the following:

''Sec. 245B. Adjustment of status of former H–5B nonimmigrant to that of person admitted for lawful permanent residence.''.

SEC. 703. ALIENS NOT SUBJECT TO DIRECT NUMERICAL LIMITATIONS.

Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended—

(1) in subparagraph (A), by striking ''subparagraph (A) or (B) of''; and

(2) by adding at the end the following:

''(F) Aliens whose status is adjusted from the status described in section 101(a)(15)(H)(v)(b).''.

SEC. 704. EMPLOYER PROTECTIONS.

(a) IMMIGRATION STATUS OF ALIEN.—Employers of aliens applying for adjustment of status under section 245B or 250A of the Immigration and Nationality Act, as added by this title, shall not be subject to civil and criminal tax liability relating directly to the employment of such alien prior to such alien receiving employment authorization under this title.

(b) PROVISION OF EMPLOYMENT RECORDS.—Employers that provide unauthorized aliens with copies of employment records or other evidence of employment pursuant to an application for adjustment of status under section 245B or 250A of the Immigration and Nationality Act or any other application or petition pursuant to any other immigration law, shall not be subject to civil and criminal liability under section 274A of such Act for employing such unauthorized aliens.

(c) APPLICABILITY OF OTHER LAW.—Nothing in this section may be used to shield an employer from liability under section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b) or any other labor or employment law.

SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security such sums as may be necessary to carry out this title and the amendments made by this title.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant subsection (a) shall remain available until expended.

(c) SENSE OF CONGRESS.—It is the sense of Congress that funds authorized to be appropriated under subsection (a) should be directly appropriated so as to facilitate the orderly and timely commencement of the processing of applications filed under sections 245B and 250A of the Immigration and Nationality Act, as added by this Act.

TITLE VIII—PROTECTION AGAINST IMMIGRATION FRAUD

SEC. 801. RIGHT TO QUALIFIED REPRESENTATION.

Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) is amended to read as follows:

''RIGHT TO QUALIFIED REPRESENTATION IN IMMIGRATION MATTERS

''SEC. 292. (a) AUTHORIZED REPRESENTATIVES IN IMMIGRATION MATTERS.—Only the following individuals are authorized to represent an individual in an immigration matter before any Federal agency or entity:

''(1) An attorney.

''(2) A law student who is enrolled in an accredited law school, or a graduate of an accredited law school who is not admitted to the bar, if—

''(A) the law student or graduate is appearing at the request of the individual to be represented;

''(B) in the case of a law student, the law student has filed a statement that the law student is participating, under the direct supervision of a faculty member, attorney, or accredited representative, in a legal aid program or clinic conducted by a law school or nonprofit organization, and that the law student is appearing without direct or indirect remuneration from the individual the law student represents;

''(C) in the case of a graduate, the graduate has filed a statement that the graduate is appearing under the supervision of an attorney or accredited representative and that the graduate is appearing without direct or indirect remuneration from the individual the graduate represents; and

''(D) the law student's or graduate's appearance is—

''(i) permitted by the official before whom the law student or graduate wishes to appear; and

''(ii) accompanied by the supervising faculty member, attorney, or accredited representative, to the extent required by such official.

''(3) Any reputable individual, if—

''(A) the individual is appearing on an individual case basis, at the request of the individual to be represented;

''(B) the individual is appearing without direct or indirect remuneration and the individual files a written declaration to that effect, except as described in subparagraph (D);

''(C) the individual has a pre-existing relationship or connection with the individual entitled to representation, such as a relative, neighbor, clergyman, business associate, or personal friend, except that this requirement may be waived, as a matter of administrative discretion, in cases where adequate representation would not otherwise be available; and

''(D) if making a personal appearance on behalf of another individual, the appearance is permitted by the official before whom the individual wishes to appear, except that such permission shall not be granted with respect to any individual who regularly engages in immigration and naturalization practice or preparation, or holds himself or herself out to the public as qualified to do so.

''(4) An individual representing a recognized organization (as described in subsection (f)) who has been approved to serve as an accredited representative by the Board of Immigration Appeals under subsection (f)(2).

''(5) An accredited official, in the United States, of the government to which an alien owes allegiance, if the official appears solely in his or her official capacity and with the consent of the person to be represented.

''(6) An individual who is licensed to practice law and is in good standing in a court of general jurisdiction of the country in which the individual resides and who is engaged in such practice, if the person represents persons only in matters outside the United States and that the official before whom such person wishes to appear allows such representation, as a matter of discretion.

''(7) An attorney, or an organization represented by an attorney, may appear, on a case-by-case basis, as amicus curiae, if the Board of Immigration Appeals grants such permission and the public interest will be served by such appearance.

''(b) FORMER EMPLOYEES.—No individual previously employed by the Department of Justice, Department of State, Department of Labor, or Department of Homeland Security may be permitted to act as an authorized representative under this section, if such authorization would violate any other applicable provision of Federal law or regulation. In addition, any application for such authorization must disclose any prior employment by or contract with such agencies for services of any nature.

''(c) ADVERTISING.—Only an attorney or an individual approved under subsection (f)(2) as an accredited representative may advertise or otherwise hold themselves out as being able to provide representation in an immigration matter. This provision shall in no way be deemed to diminish any Federal or State law to regulate, control, or enforce laws regarding such advertisement, solicitation, or offer of representation.

''(d) REMOVAL PROCEEDINGS.—In any proceeding for the removal of an individual from the United States and in any appeal proceedings from such proceeding, the individual shall have the privilege, as the individual shall choose, of being represented (at no expense to the Government) by an individual described in subsection (a). Representation by an individual other than a person described in subsection (a) may cause the

representative to be subject to civil penalties or such other penalties as may be applicable.

''(e) BENEFITS FILINGS.—In any filing or submission for an immigration related benefit or a determination related to the immigration status of an individual made to the Department of Homeland Security, the Department of Labor, or the Department of State, the individual shall have the privilege, as the individual shall choose, of being represented (at no expense to the Government) by an individual described in subsection (a). Representation by an individual other than an individual described in subsection (a) is cause for the representative to be subject to civil or criminal penalties, as may be applicable.

''(f) RECOGNIZED ORGANIZATIONS AND ACCREDITED REPRESENTATIVES.—

''(1) RECOGNIZED ORGANIZATIONS.—

''(A) IN GENERAL.—The Board of Immigration Appeals may determine that a person is a recognized organization if such person—

''(i) is a nonprofit religious, charitable, social service, or similar organization established in the United States that—

''(I) is recognized by the Board of Immigration Appeals; and

''(II) is authorized to designate a representative to appear in an immigration matter before the Department of Homeland Security or the Executive Office for Immigration Review of the Department of Justice; and

''(ii) demonstrates to the Board that such person—

''(I) makes only nominal charges and assesses no excessive membership dues for individuals given assistance; and

''(II) has at its disposal adequate knowledge, information, and experience.

''(B) BONDING.—The Board, in its discretion, may impose a bond requirement on new organizations seeking recognition.

''(C) REPORTING OBLIGATIONS.—Recognized organizations shall promptly notify the Board when the organization no longer meets the requirements for recognition or when an accredited representative employed by the recognized organization ceases to be employed by the recognized organization.

''(2) ACCREDITED REPRESENTATIVES.—The Board of Immigration Appeals shall approve any qualified individual designated by a recognized organization to serve as an accredited representative. Such individual must be employed by the recognized organization and must meet all requirements set forth in this section and in the accompanying regulations to be authorized to represent individuals in an immigration matter. Accredited representatives, through their recognized organizations, must certify their continuing eligibility for accreditation every 3 years with the Board of Immigration Appeals. Accredited representatives who fail to comply with these requirements shall not have authority to represent persons in an immigration matter for the recognized organization.

''(g) PROHIBITED ACTS.—An individual, other than an individual authorized to represent an individual under this section, may not—

''(1) directly or indirectly provide or offer representation regarding an immigration matter for compensation or contribution;

''(2) advertise or solicit representation in an immigration matter;

''(3) retain any compensation provided for a prohibited act described in paragraph (1) or (2), regardless of whether any petition, application, or other document was filed with any government agency or entity and regardless of whether a petition, application, or other document was prepared or represented to have been prepared by such individual;

''(4) represent directly or indirectly that the individual is an attorney or supervised by or affiliated with an attorney, when such representation is false; or

''(5) violate any applicable civil or criminal statute or regulation of a State regarding the provision of representation by providing or offering to provide immigration or immigration-related assistance referenced in this subsection.

''(h) CIVIL ENFORCEMENT.—

''(1) IN GENERAL.—Any person, or any entity acting for the interests of itself, its members, or the general public (including a Federal law enforcement official or agency or law enforcement official or agency of any State or political subdivision of a State), that has reason to believe that any person is being or has been injured by reason of a violation of subsection (g) may commence a civil action in any court of competent jurisdiction.

''(2) REMEDIES.—

''(A) DAMAGES.—In any civil action brought under this subsection, if the court finds that the defendant has violated subsection (g), it shall award actual damages, plus the greater of—

''(i) an amount treble the amount of actual damages; or

''(ii) $1,000 per violation.

''(B) INJUNCTIVE RELIEF.—The court may award appropriate injunctive relief, including temporary, preliminary, or permanent injunctive relief, and restitution. Injunctive relief may include, where appropriate, an order temporarily or permanently enjoining the defendant from providing any service to any person in any immigration matter. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the commission of any act described in subsection (g).

''(C) ATTORNEY'S FEES.—The court shall also grant a prevailing plaintiff reasonable attorney's fees and costs, including expert witness fees.

''(D) CIVIL PENALTIES.—The court may also assess a civil penalty not exceeding $50,000 for a first violation, and not exceeding $100,000 for subsequent violations.

''(E) CUMULATIVE REMEDIES.—Unless otherwise expressly provided, the remedies or penalties provided under this paragraph are cumulative to each other and to the remedies or penalties available under all other Federal laws or laws of the jurisdiction where the violation occurred.

''(3) NONPREEMPTION.—Nothing in this subsection shall be construed to preempt any other private right of action or any right of action pursuant to the laws of any jurisdiction.

''(4) DISCOVERY.—Information obtained through discovery in a civil action under this subsection shall not be used in any criminal action. Upon the request of any party to a civil action under this subsection, any part of the court file that makes reference to information discovered in a civil action under this subsection may be sealed.

''(i) NONPREEMPTION OF MORE PROTECTIVE STATE AND LOCAL LAWS.—The provisions of this section supersede laws, regulations, and municipal ordinances of any State only to the extent such laws, regulations, and municipal ordinances impede the application of any provision of this section. Any State or political subdivision of a State may impose requirements supplementing those imposed by this section.

''(j) DEFINITIONS.—As used in this section—

''(1) the term 'attorney' means a person who—

''(A) is a member in good standing of the bar of the highest court of a State; and

''(B) is not under any order of any court suspending, enjoining, restraining, disbarring, or otherwise restricting such person in the practice of law;

''(2) the term 'compensation' means money, property, labor, promise of payment, or any other consideration provided directly or indirectly to an individual

''(3) the term 'immigration matter' means any proceeding, filing, or action affecting the immigration or citizenship status of any person, which arises under any immigration or nationality law, Executive order, Presidential proclamation, or action of any Federal agency;

''(4) the term 'representation', when used with respect to the representation of a person, includes—

''(A) the appearance, either in person or through the preparation or filing of any brief or other document, paper, application, or petition on behalf of another person or client, before any Federal agency or officer; and

''(B) the study of the facts of a case and the applicable laws, coupled with the giving of advice and auxiliary activities, including the incidental preparation of papers; and

''(5) the term 'State' includes a State or an outlying possession of the United States.''.

SEC. 802. PROTECTION OF WITNESS TESTIMONY.

(a) DEFINITION.—Section 101(a)(15)(U)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(i)) is amended—

(1) by inserting in subclause (I) after the phrase ''clause (iii)'' the following: ''or has suffered substantial financial, physical, or mental harm as the result of a prohibited act described in section 292;''

(2) by inserting in subclause (II) after the phrase ''clause (iii)'' the following: ''or section 292'';

(3) by inserting in subclause (III) after the phrase ''clause (iii)'' the following: ''or section 292''; and

(4) by inserting in subclause (IV) after the phrase ''clause (iii)'' the following: ''or section 292''.

(b) ADMISSION OF NONIMMIGRANTS.—Section 214(p) of the Immigration and Nationality Act of (8 U.S.C. 1184(p)) is amended—

(1) in paragraph (1), by inserting ''or section 274E'' after ''section 101(a)(15)(U)(iii)'' each place it appears; and

(2) in paragraph (2)(A), by striking ''10,000'' and inserting ''15,000''.

TITLE IX—CIVICS INTEGRATION

SEC. 901. FUNDING FOR THE OFFICE OF CITIZENSHIP.

(a) AUTHORIZATION.—The Secretary of Homeland Security, 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 section 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 (as described in section 451(f)(2) of the Homeland Security Act of 2002 (6 U.S.C. 271(f)(2)).

(b) GIFTS.—

(1) TO FOUNDATION.—The Foundation may solicit, accept, and make gifts of money and other property in accordance with section 501(c)(3) of the Internal Revenue Code of 1986.

(2) FROM FOUNDATION.—The Office of Citizenship may accept gifts from the Foundation to support the functions of the Office.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the mission of the Office of Citizenship.

SEC. 902. CIVICS INTEGRATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a competitive grant program to fund—

(1) efforts by entities certified by the Office of Citizenship to provide civics and English as a second language courses; or

(2) other activities approved by the Secretary to promote civics and English as a second language.

(b) ACCEPTANCE OF GIFTS.—The Secretary may accept and use gifts from the United States Citizenship Foundation for grants under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE X—PROMOTING ACCESS TO HEALTH CARE

SEC. 1001. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

Section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd note) is amended—

(1) by striking ''2008'' and inserting ''2011''; and

(2) in subsection (c)(5), by adding at the end the following:

''(D) Nonimmigrants described in section 101(a)(15)(H)(v) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(v))''.

SEC. 1002. PROHIBITION AGAINST OFFSET OF CERTAIN MEDICARE AND MEDICAID PAYMENTS.

Payments made under section 1011 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395dd note)—

(1) shall not be considered ''third party coverage'' for the purposes of section 1923 of the Social Security Act (42 U.S.C. 1396r–4); and

(2) shall not impact payments made under such section of the Social Security Act.

SEC. 1003. PROHIBITION AGAINST DISCRIMINATION AGAINST ALIENS ON THE BASIS OF EMPLOYMENT IN HOSPITAL-BASED VERSUS NONHOSPITAL-BASED SITES.

Section 214(l)(1)(C) of the Immigrant and Nationality Act (8 U.S.C. 1184(l)(1)(C) is amended—

(1) in clause (i), by striking ''and'' at the end; and

(2) by adding at the end the following:

''(iii) such interested Federal agency or interested State agency, in determining which aliens will be eligible for such waivers, does not utilize selection criteria, other than as described in this subsection, that discriminate on the basis of the alien's employment in a hospital-based versus nonhospital-based facility or organization; and''.

SEC. 1004. BINATIONAL PUBLIC HEALTH INFRASTRUCTURE AND HEALTH INSURANCE.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall contract with the Institute of Medicine of the National Academies (referred to in this section as the ''Institute'') to study binational public health infrastructure and health insurance efforts.

(2) INPUT.—In conducting the study under paragraph (1), the Institute shall solicit input from border health experts and health insurance companies.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date on which the Secretary of Health and Human Services enters into a contract under subsection (a), the Institute shall submit a report concerning the study conducted under subsection (a) to the Secretary of Health and Human Services and the appropriate committees of Congress.

(2) CONTENTS.—The report submitted under paragraph (1) shall include the recommendations of the Institute on ways to expand or improve binational public health infrastructure and health insurance efforts.

TITLE XI—MISCELLANEOUS

SEC. 1101. SUBMISSION TO CONGRESS OF INFORMATION REGARDING H–5A NONIMMIGRANTS.

(a) ENSURING ACCURATE COUNT.—The Secretary of State and the Secretary of Homeland Security shall maintain an accurate count of the number of aliens subject to the numerical limitations under section 214(g)(1)(C) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(1)(C)) who are issued visas or otherwise provided nonimmigrant status.

(b) PROVISION OF INFORMATION.—

(1) QUARTERLY NOTIFICATION.—Beginning with the first fiscal year after regulations are promulgated to implement this Act, the Secretary of State and the Secretary of Homeland Security shall submit quarterly reports to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives containing the numbers of aliens who were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(v)(a) of the Immigrant and Nationality Act (8 U.S.C. 1101(a)(15)(H)(v)(a)) during the preceding 3-month period.

(2) ANNUAL SUBMISSION.—Beginning with the first fiscal year after regulations are promulgated to implement this Act, the Secretary of Homeland Security shall submit annual reports to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, containing information on the countries of origin and occupations of, geographic area of employment in the United States, and compensation paid to, aliens who were issued visas or otherwise provided nonimmigrant status under such section 101(a)(15)(H)(v)(a). The Secretary shall compile such reports based on the data reported by employers to the Employment Eligibility Confirmation System established in section 402.

SEC. 1102. H–5 NONIMMIGRANT PETITIONER ACCOUNT.

Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356) is amended by adding at the end the following:

''(w)(1) There is established in the general fund of the Treasury of the United States an account, which shall be known as the 'H–5 Nonimmigrant Petitioner Account'.

''(2) There shall be deposited as offsetting receipts into the H–5 Nonimmigrant Petitioners Account—

''(A) all fees collected under section 218A; and

''(B) all fines collected under section 212(n)(2)(I).

''(3) Of the fees and fines deposited into the H–5 Nonimmigrant Petitioner Account—

''(A) 53 percent shall remain available to the Secretary of Homeland Security for efforts related to the adjudication and implementation of the H–5 visa programs described in sections 221(a) and 250A and any other efforts necessary to carry out the provisions of the Secure America and Orderly Immigration Act and the amendments made by such Act, of which the Secretary shall allocate—

''(i) 10 percent shall remain available to the Secretary of Homeland Security for the border security efforts described in title I of the Secure America and Orderly Immigration Act.

''(ii) not more than 1 percent to promote public awareness of the H–5 visa program, to protect migrants from fraud, and to combat the unauthorized practice of law described in title III of the Secure America and Orderly Immigration Act;

''(iii) not more than 1 percent to the Office of Citizenship to promote civics integration activities described in section 901 of the Secure America and Orderly Immigration Act; and

''(iv) 2 percent for the Civics Integration Grant Program under section 902 of the Secure America and Orderly Immigration Act.

''(B) 15 percent shall remain available to the Secretary of Labor for the enforcement of labor standards in those geographic and occupational areas in which H–5A visa holders are likely to be employed and for other enforcement efforts under the Secure America and Orderly Immigration Act;

''(C) 15 percent shall remain available to the Commissioner of Social Security for the creation and maintenance of the Employment Eligibility Confirmation System described in section 402 of the Secure America and Orderly Immigration Act;

''(D) 15 percent shall remain available to the Secretary of State to carry out any necessary provisions of the Secure America and Orderly Immigration Act; and

''(E) 2 percent shall remain available to the Secretary of Health and Human Services for the reimbursement of hospitals serving individuals working under programs established in this Act.''.

SEC. 1103. ANTI-DISCRIMINATION PROTECTIONS.

Section 274B(a)(3)(B) of the Immigration and Nationality Act (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; or

''(v) granted the status of nonimmigrant under section 101(a)(15)(H)(v).''.

SEC. 1104. WOMEN AND CHILDREN AT RISK OF HARM.

(a) CERTAIN CHILDREN AND WOMEN AT RISK OF HARM.—Section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) is amended—

(1) in subparagraph (L), by inserting a semicolon at the end;

(2) in subparagraph (M), by striking the period at the end and inserting ''; or''; and

(3) 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.''.

(b) STATUTORY CONSTRUCTION.—Section 101 of the Immigration and Nationality Act (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).''.

(c) ALLOCATION OF SPECIAL IMMIGRANT VISAS.—Section 203(b)(4) of the Immigration Nationality Act (8 U.S.C. 1153(b)(4)) is amended by striking ''(A) or (B) thereof'' and inserting ''(A), (B), or (N) of such section''.

(d) 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 subsection (a), special immigrant status shall be adjudicated and, if granted, the alien shall be—

(1) paroled to the United States pursuant to section 212(d)(5) of that Act (8 U.S.C. 1182(d)(5)); and

(2) allowed to apply for adjustment of status to permanent residence under section 245 of that Act (8 U.S.C. 1255) not later than 1 year after the alien's arrival in the United States.

(e) REQUIREMENT PRIOR TO ENTRY INTO THE UNITED STATES.—

(1) DATABASE SEARCH.—An alien may not be admitted to the United States under this section or an amendment made by this section until the Secretary of Homeland Security has ensured that a search of each database maintained by an agency or department of the United States has been conducted to determine whether such alien is ineligible to be admitted to the Untied States on criminal, security, or related grounds.

(2) COOPERATION AND SCHEDULE.—The Secretary of Homeland Security and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required by paragraph (1) 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 (a).

(f) REQUIREMENT AFTER ENTRY INTO THE UNITED STATES.—

(1) REQUIREMENT TO SUBMIT FINGERPRINTS.—

(A) IN GENERAL.—Not later than 30 days after the date that an alien enters the United States under this section or an amendment made by this section, the alien shall be fingerprinted and submit to the Secretary of Homeland Security such fingerprints and any other personal biometric data required by the Secretary.

(B) OTHER REQUIREMENTS.—The Secretary of Homeland Security 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 under subparagraph (A).

(2) DATABASE SEARCH.—The Secretary of Homeland Security 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.

(3) COOPERATION AND SCHEDULE.—The Secretary of Homeland Security and the head of each appropriate agency or department of the United States shall work cooperatively to ensure that each database search required under paragraph (2) is completed not later than 180 days after the date on which the alien enters the United States.

(4) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(A) ADMINISTRATIVE REVIEW.—An alien who is admitted to the United States under this section or an amendment made by this section who is determined to be ineligible for an adjustment of status pursuant to section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) may appeal such a determination through the Administrative Appeals Office of the Bureau of Citizenship and Immigration Services of the Department of Homeland Security. The Secretary of Homeland Security shall ensure that a determination on such appeal is made not later than 60 days after the date on which the appeal is filed.

(B) JUDICIAL REVIEW.—Nothing in this section, or in an amendment made by this section, may preclude application of section 242(a)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1252(a)(2)(B)).

(g) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall 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—

(1) data related to the implementation of this section and the amendments made by this section;

(2) 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 subsection (a); and

(3) any other information that the Secretary of Homeland Security determines to be appropriate.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section and the amendments made by this section.

SEC. 1105. EXPANSION OF S VISA.

(a) EXPANSION OF S VISA CLASSIFICATION.—Section 101(a)(15)(S) of the Immigration and Nationality Act (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''; and

(B) 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) of the Immigration and Nationality Act (8 U.S.C. 1184(k)(1)) is amended to read as follows:

''(1) 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 3,500.''.

SEC. 1106. VOLUNTEERS.

It is not a violation of clauses (ii), (iii), or (iv) of subparagraph (A) for a religious denomination described in section 101(a)(27)(C)(i) or an affiliated religious organization described in section 101(a)(27)(C)(ii)(III), or their agents or officers, to encourage, invite, call, allow, or enable an alien, who is already present in the United States in violation of law to carry on the violation described in section 101(a)(27)(C)(ii)(I), as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, and other basic living expenses.

SA 1181. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of

Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

TITLE VI—HAZARDOUS MATERIALS

SEC. 601. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This title may be cited as the ''Hazardous Materials Vulnerability Reduction Act of 2005''.

(b) FINDINGS.—Congress makes the following findings:

(1) Congress has specifically given the Department of Homeland Security, working in conjunction with the Department of Transportation and other Federal agencies, the primary authority for the security of the United States transportation sector, including passenger and freight rail.

(2) This authority includes the responsibility to protect American citizens from terrorist incidents related to the transport by rail of extremely hazardous materials.

(3) Federal agencies have determined that hazardous materials can be used as tools of destruction and terror and that extremely hazardous materials are particularly vulnerable to sabotage or misuse during transport.

(4) The Federal Bureau of Investigation and the Central Intelligence Agency have found evidence suggesting that chemical tankers used to transport and store extremely hazardous chemicals have been targeted by terrorist groups.

(5) Rail shipments of extremely hazardous materials are often routed through highly attractive targets and densely populated areas, including within a few miles of the White House and United States Capitol.

(6) According to security experts, certain extremely hazardous materials present a mass casualty terrorist potential rivaled only by improvised nuclear devices, certain acts of bioterrorism, and the collapse of large occupied buildings.

(7) A report by the Chlorine Institute found that a 90-ton rail tanker, if successfully targeted by an explosive device, could cause a catastrophic release of an extremely hazardous material, creating a toxic cloud 40 miles long and 10 miles wide.

(8) The Environmental Protection Agency estimates that in an urban area a toxic cloud could extend for 14 miles.

(9) The United States Naval Research Laboratories concluded that a toxic plume of this type, created while there was a public event on the National Mall, could kill or injure up to 100,000 people in less than 30 minutes.

(10) According to security experts, rail shipments of extremely hazardous materials are particularly vulnerable and dangerous, however the Federal Government has made no material reduction in the inherent vulnerability of hazardous chemical targets inside the United States.

(11) While the safety record related to rail shipments of hazardous materials is very good, recent accidental releases of extremely hazardous materials in rural South Carolina and San Antonio, Texas, demonstrate the fatal danger posed by extremely hazardous materials.

(12) Security experts have determined that re-routing these rail shipments is the only way to immediately eliminate this danger in high threat areas, which currently puts hundreds of thousands of people at risk.

(13) Security experts have determined that the primary benefit of re-routing the shipment of extremely hazardous materials is a reduction in the number of people that would be exposed to the deadly impact of the release due to an attack, and the principal cost would be the additional operating expense associated with possible increase inhaul for the shipment of extremely hazardous materials.

(14) Less than 5 percent of all hazardous materials shipped by rail will meet the definition of extremely hazardous materials under this title.

SEC. 602. DEFINITIONS.

In this title, the following definitions apply:

(1) EXTREMELY HAZARDOUS MATERIAL.—The term ''extremely hazardous material'' means any chemical, toxin, or other material being shipped or stored in sufficient quantities to represent an acute health threat or have a high likelihood of causing injuries, casualties, or economic damage if successfully targeted by a terrorist attack, including materials that—

(A) are—

(i) toxic by inhalation;

(ii) extremely flammable; or

(iii) highly explosive;

(B) contain high level nuclear waste; or

(C) are otherwise designated by the Secretary as extremely hazardous.

(2) HIGH THREAT CORRIDOR.—

(A) IN GENERAL.—The term ''high threat corridor'' means a geographic area that has been designated by the Secretary as particularly vulnerable to damage from the release of extremely hazardous materials, including—

(i) large populations centers;

(ii) areas important to national security;

(iii) areas that terrorists may be particularly likely to attack; or

(iv) any other area designated by the Secretary as vulnerable to damage from the rail shipment or storage of extremely hazardous materials.

(B) OTHER AREAS.—

(i) IN GENERAL.—Any city that is not designated as a high threat corridor under subparagraph (A) may file a petition with the Secretary to be so designated.

(ii) PROCEDURE.—The Secretary shall establish, by rule, regulation, or order, procedures for petitions under clause (i), including—

(I) designating the local official eligible to file a petition;

(II) establishing the criteria a city shall include in a petition;

(III) allowing a city to submit evidence supporting its petition; and

(IV) requiring the Secretary to rule on the petition not later than 60 days after the date of submission of the petition.

(iii) NOTICE.—The Secretary's decision regarding any petition under clause (i) shall be communicated to the requesting city, the Governor of the State in which the city is located, and the Senators and Members of the House of Representatives that represent the State in which the city is located.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security or the Secretary's designee.

(4) STORAGE.—The term ''storage'' means any temporary or long-term storage of extremely hazardous materials in rail tankers or any other medium utilized to transport extremely hazardous materials by rail.

SEC. 603. REGULATIONS FOR TRANSPORT OF EXTREMELY HAZARDOUS MATERIALS.

(a) PURPOSES OF REGULATIONS.—The regulations issued under this section shall establish a national, risk-based policy for extremely hazardous materials transported by rail or being stored. To the extent the Secretary determines appropriate, the regulations issued under this section shall be consistent with other Federal, State, and local regulations and international agreements relating to shipping or storing extremely hazardous materials.

(b) ISSUANCE OF REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue, after notice and opportunity for public comment, regulations concerning the rail shipment and storage of extremely hazardous materials by owners and operators of railroads. In developing such regulations, the Secretary shall consult with other Federal, State, and local government entities, security experts, representatives of the hazardous materials rail shipping industry, labor unions representing persons who work with hazardous materials in the rail shipping industry, and other interested persons, including private sector interest groups.

(c) REQUIREMENTS.—The regulations issued under this section shall—

(1) include a list of the high threat corridors designated by the Secretary;

(2) contain the criteria used by the Secretary to determine whether an area qualifies as a high threat corridor;

(3) include a list of extremely hazardous materials;

(4) establish protocols for owners and operators of railroads that ship extremely hazardous materials regarding notifying all governors, mayors, and other designated officials and local emergency responders in a high threat corridor of the quantity and type of extremely hazardous materials that are transported by rail through the high threat corridor;

(5) require reports regarding the transport by railroad of extremely hazardous materials by the Secretary to local governmental officials designated by the Secretary, and Local Emergency Planning Committees, established under the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. 11001 et seq.);

(6) establish protocols for the coordination of Federal, State, and local law enforcement authorities in creating a plan to respond to a terrorist attack, sabotage, or accident involving a rail shipment of extremely hazardous materials that causes the release of such materials;

(7) require that any rail shipment containing extremely hazardous materials be rerouted around any high threat corridor; and

(8) establish standards for the Secretary to grant exceptions to the re-routing requirement under paragraph (7).

(d) HIGH THREAT CORRIDORS.—

(1) IN GENERAL.—The criteria under subsection (c)(2) for determining whether an area qualifies as a high threat corridor may be the same criteria used for the distribution of funds under the Urban Area Security Initiative program.

(2) INITIAL LIST.—If the Secretary is unable to complete the review necessary to determine which areas should be designated as high threat corridors within 90 days after the date of enactment of this Act, the initial list shall be the cities that receive funding under the Urban Areas Security Initiative Program in fiscal year 2004.

(e) EXTREMELY HAZARDOUS MATERIALS LIST.—If the Secretary is unable to complete the review necessary to determine which materials should be designated extremely hazardous materials under subsection (c)(3) within 90 days of the date of enactment of this Act, the initial list shall include—

(1) explosives classified as Class 1, Division 1.1, or Class 1, Division 1.2, under section 173.2 of title 49, Code of Federal Regulations, in a quantity greater than 500 kilograms;

(2) flammable gasses classified as Class 2, Division 2.1, under section 173.2 of title 49, Code of Federal Regulations, in a quantity greater than 10,000 liters;

(3) poisonous gasses classified as Class 2, Division 2.3, under section 173.2 of title 49, Code of Federal Regulations, that are also

assigned to Hazard Zones A or B under section 173.116 of title 49, Code of Federal Regulations, in a quantity greater than 500 liters;

(4) poisonous materials, other than gasses, classified as Class 6, Division 6.1, under section 173.2 of title 49, Code of Federal Regulations, that are also assigned to Hazard Zones A or B under section 173.116 of title 49, Code of Federal Regulations, in a quantity greater than 1,000 kilograms; and

(5) anhydrous ammonia classified as Class 2, Division 2.2, under section 173.2 of title 49, Code of Federal Regulations, in a quantity greater than 1,000 kilograms.

(f) NOTIFICATION.—

(1) IN GENERAL.—The protocols under subsection (c)(4) shall establish the required frequency of reporting by an owner and operator of a railroad to the Governors, Mayors, and other designated officials and local emergency responders in a high threat corridor.

(2) REPORTS TO SECRETARY.—The protocols under subsection (c)(4) shall require owners and operators of railroad to make annual reports to the Secretary regarding the transportation of extremely hazardous materials, and to make quarterly updates if there has been any significant change in the type, quantity, or frequency of shipments.

(3) CONSIDERATIONS.—In developing protocols under subsection (c)(4), the Secretary shall consider both the security needs of the United States and the interests of State and local governmental officials.

(g) REPORTS.—

(1) FREQUENCY.—

(A) IN GENERAL.—The Secretary shall make an annual report to local governmental officials and Local Emergency Planning Committees under subsection (c)(5).

(B) UPDATES.—If there has been any significant change in the type, quantity, or frequency of rail shipments in a geographic area, the Secretary shall make a quarterly update report to local governmental officials and Local Emergency Planning Committees in that geographic area.

(2) CONTENTS.—Each report made under subsection (c)(5) shall incorporate information from the reports under subsection (c)(4) and shall include—

(A) a good-faith estimate of the total number of rail cars containing extremely hazardous materials shipped through or stored in each metropolitan statistical area; and

(B) if a release from a railcar carrying or storing extremely hazardous materials is likely to harm persons or property beyond the property of the owner or operator of the railroad, a risk management plan that provides—

(i) a hazard assessment of the potential effects of a release of the extremely hazardous materials, including—

(I) an estimate of the potential release quantities; and

(II) a determination of the downwind effects, including the potential exposures to affected populations;

(ii) a program to prevent a release of extremely hazardous materials, including—

(I) security precautions;

(II) monitoring programs; and

(III) employee training measures utilized; and

(iii) an emergency response program that provides for specific actions to be taken in response to the release of an extremely hazardous material, including procedures for informing the public and Federal, State, and local agencies responsible for responding to the release of an extremely hazardous material.

(h) TRANSPORTATION AND STORAGE OF EXTREMELY HAZARDOUS MATERIALS THROUGH HIGH THREAT CORRIDORS.—

(1) IN GENERAL.—The standards for the Secretary to grant exceptions under subsection (c)(8) shall require a finding of special circumstances by the Secretary, including that—

(A) the shipment originates in or is destined to the high threat corridor;

(B) there is no practical alternate route;

(C) there is an unanticipated, temporary emergency that threatens the lives of people in the high threat corridor; or

(D) there would be no harm to persons or property beyond the property of the owner or operator of the railroad in the event of a successful terrorist attack on the shipment.

(2) PRACTICAL ALTERNATE ROUTES.—Whether a shipper must utilize an interchange agreement or otherwise utilize a system of tracks or facilities owned by another operator shall not be considered by the Secretary in determining whether there is a practical alternate route under paragraph (1)(B).

(3) GRANT OF EXCEPTION.—If the Secretary grants an exception under subsection (c)(8)—

(A) the extremely hazardous material may not be stored in the high threat corridor, including under a leased track or rail siding agreement; and

(B) the Secretary shall notify Federal, State, and local law enforcement and first responder agencies (including, if applicable, transit, railroad, or port authority agencies) within the high threat corridor.

SEC. 604. SAFETY TRAINING.

(a) HOMELAND SECURITY GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary may award grants to local governments and owners and operators of railroads to conduct training regarding safety procedures for handling and responding to emergencies involving extremely hazardous materials.

(2) USE OF FUNDS.—Grants under this subsection may be used to provide training and purchase safety equipment for individuals who—

(A) transport, load, unload, or are otherwise involved in the shipment of extremely hazardous materials;

(B) would respond to an accident or incident involving a shipment of extremely hazardous materials; and

(C) would repair transportation equipment and facilities in the event of such an accident or incident.

(3) APPLICATION.—A local government or owner or operator of a railroad desiring a grant under this subsection shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably establish.

(b) RAILWAY HAZMAT TRAINING PROGRAM.—

(1) PROGRAM.—Section 5116(j) of title 49, United States Code, is amended by adding at the end the following:

''(6) RAILWAY HAZMAT TRAINING PROGRAM.—

''(A) In order to further the purposes of subsection (b), the Secretary of Transportation shall, subject to the availability of funds, make grants to national nonprofit employee organizations with experience in conducting training regarding the transportation of hazardous materials on railways for the purpose of training railway workers who are likely to discover, witness, or otherwise identify a release of extremely hazardous materials and to prevent or respond appropriately to the incident.

''(B) The Secretary of Transportation shall delegate authority for the administration of the Railway Hazmat Training Program to the Director of the National Institute of Environmental Health Sciences under subsection (g). In administering the program under this paragraph, the Director of the National Institute of Environmental Health Sciences shall consult closely with the Secretary of Transportation and the Secretary of Homeland Security.''.

SEC. 605. RESEARCH AND DEVELOPMENT.

(a) TRANSPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a study of the benefits and availability of technology and procedures that may be utilized to—

(A) reduce the likelihood of a terrorist attack on a rail shipment of extremely hazardous materials;

(B) reduce the likelihood of a catastrophic release of extremely hazardous materials in the event of a terrorist attack; and

(C) enhance the ability of first responders to respond to a terrorist attack on a rail shipment of extremely hazardous materials and other required activities in the event of such an attack.

(2) MATTERS STUDIED.—The study conducted under this subsection shall include the evaluation of—

(A) whether safer alternatives to 90-ton rail tankers exist;

(B) the feasibility of requiring chemical shippers to electronically track the movements of all shipments of extremely hazardous materials and report this information to the Department of Homeland Security on an ongoing basis as such shipments are transported; and

(C) the feasibility of utilizing finger-print based access controls for all chemical conveyances.

(3) REPORTING.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress describing the findings of the study conducted under this subsection, which shall include recommendations and cost estimates for securing shipments of extremely hazardous materials.

(b) PHYSICAL SECURITY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall conduct a study of the physical security measures available for rail shipments of extremely hazardous materials that will reduce the risk of leakage or release in the event of a terrorist attack or sabotage.

(2) MATTERS STUDIED.—The study conducted under this subsection shall consider the use of passive secondary containment of tanker valves, additional security force personnel, surveillance technologies, barriers, decoy rail cars, and methods to minimize delays during shipping.

(3) REPORTING.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress describing the findings of the study conducted under this subsection, which shall contain recommendations and cost estimates for securing shipments of extremely hazardous materials.

(c) LEASED TRACK STORAGE ARRANGEMENTS.—

(1) IN GENERAL.—Not later than 90 days after enactment of this Act, the Secretary shall conduct a study of available alternatives to storing extremely hazardous materials in or on leased track facilities.

(2) MATTERS STUDIED.—The study conducted under this subsection shall—

(A) evaluate the extent of the use of leased track facilities and the security measures that should be taken to secure leased track facilities; and

(B) assess means to limit the consequences of an attack on extremely hazardous materials stored on leased track facilities to nearby communities.

(3) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress describing the findings of the study conducted under this subsection, which shall contain

recommendations and cost estimates for securing shipments of extremely hazardous materials.

SEC. 606. WHISTLEBLOWER PROTECTION.

(a) PROHIBITION AGAINST DISCRIMINATION.—No owner or operator of a railroad may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this title by the owner or operator of a railroad or any director, officer, or employee of an owner or operator of a railroad.

(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the owner or operator of a railroad that committed the violation to—

(1) reinstate the employee to the employee's former position;

(2) pay compensatory damages; or

(3) take other appropriate actions to remedy any past discrimination.

(d) LIMITATION.—The protections of this section shall not apply to any employee who—

(1) deliberately causes or participates in the alleged violation of law or regulation; or

(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

SEC. 607. PENALTIES.

(a) RIGHT OF ACTION.—

(1) IN GENERAL.—Any State or local government may bring a civil action in a United States district court for redress of injuries caused by a violation of this title against any person (other than an individual) who transports, loads, unloads, or is otherwise involved in the shipping of extremely hazardous materials by rail and who violated this title.

(2) RELIEF.—In an action under paragraph (1), a State or local government may seek, for each violation of this title—

(A) an order for injunctive relief; and

(B) a civil penalty of not more than $1,000,000.

(b) ADMINISTRATIVE PENALTIES.—

(1) IN GENERAL.—The Secretary may issue an order imposing an administrative penalty of not more than $1,000,000 for each failure by a person (other than an individual) who transports, loads, unloads, or is otherwise involved in the shipping of extremely hazardous materials to comply with this title.

(2) NOTICE AND HEARING.—Before issuing an order under paragraph (1), the Secretary shall provide the person who allegedly violated this title—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the person received the notice, a hearing on the proposed order.

(3) PROCEDURES.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue regulations establishing procedures for administrative hearings and the appropriate review of penalties issued under this subsection, including establishing deadlines.

SA 1182. Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. KERRY, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 18, strike ''$2,694,300,000'' and insert ''$3,004,300,000''.

On page 78, line 13, strike ''$365,000,000'' and insert ''$685,000,000''.

On page 78, line 24, strike ''$10,000,000'' and insert ''$20,000,000''.

On page 79, line 1, strike ''$100,000,000'' and insert ''$400,000,000''.

On page 79, line 4, insert the following: '': *Provided further*, That funding provided above may be used, among other things, for canine patrols for chemical, biological, or explosives detection; overtime reimbursement for enhanced security personnel; and other capital security improvements.''.

On page 91, line 23, strike the period at the end and insert the following: '': *Provided further*, That $50,000,000 is solely for the development of devices that can immediately detect explosive, chemical, biological, or radiological materials on mass transit rail cars.''

SA 1183. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, line 23, insert before the period '': *Provided further*, That of the total funds made available under this heading, not less than $140,000,000 shall be for activities to demonstrate the viability, economic costs, and effectiveness of adapting military technology to protect commercial aircraft against the treat of man portable air defense systems (MANPADS).

SA 1184. Mr. SCHUMER (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall designate an agency within the Department of Homeland Security as having responsibility for managing the procurement and installation of man portable air defense system (MANPAD) countermeasure systems for commercial aircraft, and may use any unobligated funds provided under title I to establish an office within the designated agency for that purpose.

SA 1185. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, add the following:

SEC. 519. ASSISTANT SECRETARY FOR CYBERSECURITY.

(a)(1) Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

''SEC. 203. ASSISTANT SECRETARY FOR CYBERSECURITY.

''(a) IN GENERAL.—There shall be in the Directorate for Information Analysis and Infrastructure Protection a National Cybersecurity Office headed by an Assistant Secretary for Cybersecurity (in this section referred to as the 'Assistant Secretary'), who shall assist the Secretary in promoting cybersecurity for the Nation.

''(b) GENERAL AUTHORITY.—The Assistant Secretary, subject to the direction and control of the Secretary, shall have primary authority within the Department for all cybersecurity-related critical infrastructure protection programs of the Department, including with respect to policy formulation and program management.

''(c) RESPONSIBILITIES.—The responsibilities of the Assistant Secretary shall include the following:

''(1) To establish and manage—

''(A) a national cybersecurity response system that includes the ability to—

''(i) analyze the effect of cybersecurity threat information on national critical infrastructure; and

''(ii) aid in the detection and warning of attacks on, and in the restoration of, cybersecurity infrastructure in the aftermath of such attacks;

''(B) a national cybersecurity threat and vulnerability reduction program that identifies cybersecurity vulnerabilities that would have a national effect on critical infrastructure, performs vulnerability assessments on information technologies, and coordinates the mitigation of such vulnerabilities;

''(C) a national cybersecurity awareness and training program that promotes cybersecurity awareness among the public and the private sectors and promotes cybersecurity training and education programs;

''(D) a government cybersecurity program to coordinate and consult with Federal, State, and local governments to enhance their cybersecurity programs; and

''(E) a national security and international cybersecurity cooperation program to help foster Federal efforts to enhance international cybersecurity awareness and cooperation.

''(2) To coordinate with the private sector on the programs under paragraph (1) as appropriate, and to promote cybersecurity information sharing, vulnerability assessment, and threat warning regarding critical infrastructure.

''(3) To coordinate with other directorates and offices within the Department on the cybersecurity aspects of their missions.

''(4) To coordinate with the Under Secretary for Emergency Preparedness and Response to ensure that the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)) includes appropriate measures for the recovery of the cybersecurity elements of critical infrastructure.

''(5) To develop processes for information sharing with the private sector, consistent with section 214, that—

''(A) promote voluntary cybersecurity best practices, standards, and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure; and

''(B) consider roles of Federal, State, local, and foreign governments and the private sector, including the insurance industry and auditors.

''(6) To coordinate with the Chief Information Officer of the Department in establishing a secure information sharing architecture and information sharing processes, including with respect to the Department's operation centers.

''(7) To consult with the Electronic Crimes Task Force of the United States Secret Service on private sector outreach and information activities.

''(8) To consult with the Office for Domestic Preparedness to ensure that realistic cybersecurity scenarios are incorporated into tabletop and recovery exercises.

''(9) To consult and coordinate, as appropriate, with other Federal agencies on cybersecurity-related programs, policies, and operations.

''(10) To consult and coordinate within the Department and, where appropriate, with other relevant Federal agencies, on security of digital control systems, such as Supervisory Control and Data Acquisition (SCADA) systems.

''(d) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.''.

(2) The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to subtitle A of title II the following:

''203. Assistant Secretary for Cybersecurity.''.

(b) Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

''(17)(A) The term 'cybersecurity' means the prevention of damage to, the protection of, and the restoration of computers, electronic communications systems, electronic communication services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.

''(B) In this paragraph—

''(i) each of the terms 'damage' and 'computer' has the meaning that term has in section 1030 of title 18, United States Code; and

''(ii) each of the terms 'electronic communications system', 'electronic communication service', 'wire communication', and 'electronic communication' has the meaning that term has in section 2510 of title 18, United States Code.''.

SA 1186. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 16, strike ''$2,413,438,000,'' and insert the following: ''$2,763,438,000, of which $200,000,000 shall be reserved for the International Civil Aviation Organization to establish biometric and document identification standards to measure multiple immutable physical characteristics, including fingerprints, eye retinas, and eye-to-eye width and for the Department of Homeland Security to place multiple biometric identifiers at each point of entry; of which $50,000,000 shall be reserved for a program that requires the government of each country participating in the visa waiver program to certify that such country will comply with the biometric standards established by the International Civil Aviation Organization; of which $25,000,000 shall be reserved for the entry and exit data systems of the Department of Homeland Security to accommodate traffic flow increases; of which $50,000,000 shall be reserved to integrate the entry and exit data collection and analysis systems of the Department of Homeland Security, the Department of State, and Department of Justice, including the Federal Bureau of Investigation; of which $25,000,000 shall be reserved to establish a uniform translation and transliteration service for all ports of entry to identify the names of individuals entering and exiting the United States;''.

SA 1187. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. . None of the funds appropriated under this Act may be used to implement plans by the Department of State and the Department of Homeland Security pursuant to section 7209(b) of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1185 note) to require passports as the only acceptable document to enter the United States from Canada or Mexico. The above funding shall be used to implement a plan developed to improve border security that would allow travelers into the United States from Canada and Mexico to use alternative documentation that is as secure as a passport, but more cost effective and efficient to obtain.

SA 1188. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 91, line 9, strike ''$1,372,399,000'' and insert ''$1,472,399,000''.

On page 91, line 23, strike ''reprogrammed.'' and insert the following: ''reprogrammed: Provided further, That of the total funds made available under this heading, $100,000,000 shall be solely for grants to eligible entities (national laboratories, nonprofit private organizations, institutions of higher education, and other entities the Secretary of Homeland Security determines to be eligible) to reseawrch and develop technologies that can be used to secure the ports of the United States, to develop technologies to increase the ability of the Customs Service to inspect merchandise carried on any vessel that arrives at any port in the United States, to develop equipment that accurately detects explosives, nuclear, radiological, chemical and biological agents that could be used to commit a terrorist act, and to improve tags and seals designed for use on shipping containers.''.

SA 1189. Mr. SCHUMER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, beginning on line 2, strike $4,452,318,000 and all that follows through ''That'' on line 5, and insert the following: ''$4,754,299,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided,* That of the amount made available under this heading, not to exceed $2,000,000 shall be available to carry out section 4051 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3728): *Provided further,* That of the amount made available under this heading, not to exceed $100,000,000 shall be available to carry out the improvements described in section 4052(b) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3728): *Provided further,* That of the amount made available under this heading, not to exceed $200,000,000 shall be available to carry out the research and development described section 4052(c) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3728): *Provided further,* That''.

SA 1190. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 71, between lines 10 and 11, insert the following:

For necessary expenses of the Transportation Security Administration related to developing and implementing a system for identifying and tracking shipments of hazardous materials (as defined in section 385.402 of title 49, Code of Federal Regulations) by truck using global positioning system technology, $70,000,000.

SA 1191. Mr. SCHUMER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 70, line 20, strike ''purposes.'' and insert the following: ''purposes: *Provided further*, That none of the funds made available under this heading shall be available if the Transportation Security Administration limits, or attempts to limit, the recruitment or hiring of personnel to serve as full-time equivalent screeners: *Provided further*, That not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the current screener staffing shortfalls at large airports and what the Secretary considers to be an appropriate nationwide full-time equivalent staffing level based on the waiting time in airport security lines and projected passenger growth.''.

SA 1192. Mr. SCHUMER (for himself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, beginning on line 2, strike ''$4,452,318,000'' and all that follows through ''$2,462,318,000:'' and insert the following: ''$4,787,299,000, to remain available until September 30, 2007, of which not to exceed $3,000 shall be for official reception and representation expenses: *Provided,* That of the total

amount made available under this heading, not to exceed $3,726,929,000 shall be for screening operations, of which $1,590,969,000 shall be available for passenger screener pay, compensation, and benefits, of which $931,864,000 shall be available for baggage screener pay, compensation, and benefits, of which $180,000,000 shall be available only for procurement of checked baggage explosive detection systems and $14,000,000 shall be available only for installation of checked baggage explosive detection systems; and not to exceed $1,060,370,000 shall be for aviation security direction and enforcement presence: *Provided further*, That security service fees authorized under section 44940 of title 49, United States Code, shall be credited to this appropriation as offsetting collections: *Provided further*, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2006, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,797,299,000:''.

SA 1193. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 21: strike $1,518,000,000 and insert $2,186,814,841

On page 77, line 22: strike $425,000,000 and insert $2,058,178,673

On page 78, line 13: strike $365,000,000 and insert $1,878,088,040

On page 78, line 16: strike $200,000,000 and insert $1,029,089,337

On page 78, line 22: strike $5,000,000 and insert $25,727,233

On page 78, line 24: strike $10,000,000 and insert $51,454,467

On page 77, line 18, strike $2,694,000,000 and insert $13,863,377,000

On page 77, line 20: strike $1,518,000,000 and insert $7,810,788,066

On page 79, line 1: strike $100,000,000 and insert $514,544,668

On page 79, line 5: strike $50,000,000 and insert $257,272,334

On page 79, line 7: strike $50,000,000 and insert $257,272,334

On page 79, line 9: strike $40,000,000 and insert $205,817,867

On page 79, line 21: strike $321,300,000 and insert $1,653,232,019

On page 81, line 24, strike $615,000,000 and insert $3,164,802,000

On page 81, line 24, strike $550,000,000 and insert $2,830,311,000

On page 81, line 26, strike $65,000,000 and insert $334,491,000

On page 82, line 12, strike $180,000,000 and insert $926,284,000

On page 83, line 12, strike $203,499,000 and insert $1,047,210,000

On page 89, line 3, strike $194,000,000 and insert $998,327,800

SA 1194. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security acting through the Under Secretary for Emergency Preparedness shall propose new inspection guidelines that prohibit inspectors from entering into a contract with any individual or entity for whom the inspector performs an inspection for purposes of determining eligibility for assistance from the Federal Emergency Management Agency.

SA 1195. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 57, line 1, strike $146,322,000'' and insert ''$144,876,000''.

On page 67, line 17, strike $50,150,000'' and insert ''$40,150,000''.

On page 79, strike lines 21 and 22, and insert the following:

(6) $307,138,000 for training, exercises, technical assistance, and other programs, of which $135,000,000 shall be available for the National Domestic Preparedness Consortium and $20,838,000 shall be available for the Citizen Corps:

On page 81, line 24, strike ''$615,000,000'' and insert ''$715,000,000''.

On page 81, line 24, strike $550,000,000'' and insert ''$650,000,000''.

On page 89, line 3, strike $194,000,000'' and insert ''$183,362,000''.

On page 89, line 26, strike $88,358,000'' and insert ''$64,743,000''.

On page 90, line 19, strike $701,793,000'' and insert ''$681,654,000, of which $14,387,000 shall be available for programs related to evaluations and studies''.

On page 91, line 9, strike $1,372,399,000'' and insert ''$1,352,399,000, of which $54,650,000 shall be available for projects related to conventional missions support''.

SA 1196. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —RAIL SECURITY

SEC. —01. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY AND RISK ASSESSMENT.—The Secretary of Homeland Security shall establish a task force, including the Transportation Security Administration, the Department of Transportation, and other appropriate agencies, to complete a vulnerability and risk assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of vulnerabilities and risks to those assets and infrastructures;

(C) identification of vulnerabilities and risks that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training appropriate railroad or railroad shipper employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the Federal government to provide increased security support at high or severe threat levels of alert;

(B) a plan for coordinating existing and planned rail security initiatives undertaken by the public and private sectors; and

(C) a contingency plan, developed in conjunction with freight and intercity and commuter passenger railroads, to ensure the continued movement of freight and passengers in the event of an attack affecting the railroad system, which shall contemplate—

(i) the possibility of rerouting traffic due to the loss of critical infrastructure, such as a bridge, tunnel, yard, or station; and

(ii) methods of continuing railroad service in the Northeast Corridor in the event of a commercial power loss, or catastrophe affecting a critical bridge, tunnel, yard, or station.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment and developing the recommendations and plans required by subsection (a), the Secretary of Homeland Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials, and other relevant parties.

(c) REPORT.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment, prioritized recommendations, and plans required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(3) FAILURE TO MEET DEADLINE.—The the Secretary fails to transmit the report required by paragraph (1) within the period required by paragraph (1), the Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security and explain in writing the reason for the failure.

(d) ANNUAL UPDATES.—The Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations each year and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) FUNDING.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2006.

SEC. —02. RAIL WORKER SECURITY TRAINING PROGRAM.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program.

(b) REPORT.—

(1) IN GENERAL.—The Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the guidance developed for the program under subsection (a).

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

SEC. —03. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. —04. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of this Act, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. —05. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Homeland Security, in cooperation with the Secretary of Transportation through the Assistant Secretary of Homeland Security (Transportation Security Administration) and other appropriate agencies, shall—

(1) study the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains including an analysis of any passenger train screening pilot programs undertaken by the Department of Homeland Security; and

(2) report the results of the study, together with any recommendations that the Secretary of Homeland Security may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—Out of funds appropriated pursuant to section 114(u)(2) of title 49, United States Code, there shall be made available to the Secretary of Homeland Security to carry out this section $5,000,000 for fiscal year 2006.

SEC. —06. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2006;
(B) $100,000,000 for fiscal year 2007;
(C) $100,000,000 for fiscal year 2008;
(D) $100,000,000 for fiscal year 2009; and
(E) $170,000,000 for fiscal year 2010.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2006;
(B) $10,000,000 for fiscal year 2007;
(C) $10,000,000 for fiscal year 2008;
(D) $10,000,000 for fiscal year 2009; and
(E) $17,000,000 for fiscal year 2010.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2006;
(B) $8,000,000 for fiscal year 2007;
(C) $8,000,000 for fiscal year 2008;
(D) $8,000,000 for fiscal year 2009; and
(E) $8,000,000 for fiscal year 2010.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2006 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. —07. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Department of Homeland Security Appropriations Act, 2006, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2006 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

''Sec.
''24316. Plan to assist families of passengers involved in rail passenger accidents.''.

SEC. —08. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section —07(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2006 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. —09. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section —01, including infrastructure, facilities, and equipment upgrades.

(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(c) EQUITABLE ALLOCATION.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section —08(b) of this title.

(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless as a result of the assessment required by section —01 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $70,000,000 for each of fiscal years 2006 through 2010 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. —10. OVERSIGHT AND GRANT PROCEDURES.

(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under this title to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. —11. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section —09(g) of this title);

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety;

(6) other projects recommended in the report required by section —01.

(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $20,000,000 for each of fiscal years 2006 through 2010 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. —12. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) TRACK STANDARDS.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. —13. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. —14. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. —15. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

''§ 20116. Whistleblower protection for rail security matters

''(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

''(e) DISCLOSURE OF IDENTITY.—

''(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

''(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

''20116. Whistleblower protection for rail security matters.''.

SEC. —16. HAZMAT ROUTING COMMISSION.

(a) IN GENERAL.—The President shall establish and appoint the members of a commission to study and make recommendations to the President concerning—

(1) the current routing of hazardous materials being transported by rail through or near facilities at high risk for catastrophic damage due to any accident involving the leakage, spilling, or release of such materials;

(2) alternative routings, the construction of additional rail facilities, and other risk reduction strategies to address issues associated with the rail transportation of such materials through or near such facilities; and

(3) feasability and funding strategies and mechanisms for implementing such alternative routings and other risk reduction strategies, including cost-benefit analyses.

(b) REPORT.—The commission shall report its findings and recommendations to the President within 12 months after the date of enactment of this Act and transmit a copy of the report to the Senate Committee on Commerce, Science, and Transportation, the House of Representives Committee on Homeland Security, and the House of Representatives Committee on Transportation and Infrastructure.

SA 1197. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 19 after ''based on'', insert ''risk and''.

SA 1198. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 19 after ''based on'', insert ''risk and''.

SA 1199. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, line 24, strike ''$615,000,000'' and insert ''$715,000,000'' and strike ''$500,000,000'' and insert ''$600,000,000''.

SA 1200. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

For necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), $100,000,000 shall be available to carry out section 33 (15 U.S.C. 2229) for the fiscal year ending September 30, 2005, to be available immediately upon enactment, and to remain available until September 30, 2007.

SA 1201. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 81, strike line 20 and insert the following:

award: Provided further, That any recipient of Federal funds granted through the State Homeland Security Grant Program, the Law Enforcement Terrorism Prevention Program, and the Urban Area Security Initiative Program, or any predecessor or successor to these programs, as appropriated in fiscal year 2004 and fiscal year 2005, shall expend funds pursuant to the relevant, approved State plan by September 30, 2007: Provided further, That any recipient of Federal funds granted through any program described in the preceding proviso, as appropriated in fiscal year 2006, shall expend funds pursuant to the relevant, approved State plan by September 30, 2008: Provided further, That any funds not expended by September 30, 2007 or September 30, 2008, respectively, as required by the preceding 2 provisos shall be returned to the Department of Homeland Security to be reallocated to State and local entities based on risk and in conformance with the assessments now being conducted by the States under Homeland Security Presidential Directive 8.

SA 1202. Mr. DODD (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 22: strike $425,000,000 and insert $2,058,178,673.

On page 78, line 13: strike $365,000,000 and insert $1,878,088,040.

On page 78, line 16: strike $200,000,000 and insert $1,029,089,337.

On page 78, line 22: strike $5,000,000 and insert $25,727,233.

On page 78, line 24: strike $10,000,000 and insert $51,454,467.

On page 77, line 18: strike $2,694,000,000 and insert $13,863,377,000.

On page 77, line 20: strike $1,518,000,000 and insert $7,810,788,066.

On page 79, line 1: strike $100,000,000 and insert $514,544,668.

On page 79, line 5: strike $50,000,000 and insert $257,272,334.

On page 79, line 7: strike $50,000,000 and insert $257,272,334.

On page 79, line 9: strike $40,000,000 and insert $205,817,867.

On page 79, line 21: strike $321,300,000 and insert $1,653,232,019.

On page 81, line 24: strike $615,000,000 and insert $3,164,802,000.

On page 81, line 24: strike $550,000,000 and insert $2,830,311,000.

On page 81, line 26: strike $65,000,000 and insert $334,491,000.

On page 82, line 12: strike $180,000,000 and insert $926,284,000.

On page 83, line 12: strike $203,499,000 and insert $1,047,210,000.

On page 89, line 3: strike $194,000,000 and insert $998,327,800.

SA 1203. Mr. CORNYN (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

TITLE VI—HOMELAND SECURITY GRANT ENHANCEMENT

SEC. 601. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Funding Our Risks With Appropriate Resource Disbursement Act of 2005'' or the ''Homeland Security FORWARD Funding Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

SEC. 602. RISK-BASED FUNDING FOR HOMELAND SECURITY.

(a) RISK-BASED FUNDING IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended by adding at the end the following:

''TITLE XVIII—RISK-BASED FUNDING FOR HOMELAND SECURITY

''SEC. 1801. RISK-BASED FUNDING FOR HOMELAND SECURITY.

''(a) RISK-BASED FUNDING.—The Secretary shall ensure that homeland security grants

are allocated based on an assessment of threat, vulnerability, and consequence to the maximum extent practicable.

''(b) COVERED GRANTS.—This title applies to grants provided by the Department to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks, especially those involving weapons of mass destruction, and grants provided by the Department for improving homeland security, including the following:

''(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

''(2) URBAN AREA SECURITY INITIATIVE.—The Urban Area Security Initiative of the Department, or any successor to such grant program.

''(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

''(4) CITIZEN CORPS PROGRAM.—The Citizen Corps Program of the Department, or any successor to such grant program.

''(c) EXCLUDED PROGRAMS.—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

''(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

''(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

''(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.), the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.), and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

''(d) EFFECT ON COVERED GRANTS.—Nothing in this Act shall be construed to require the elimination of a covered grant program.''.

(b) COVERED GRANT ELIGIBILITY AND CRITERIA.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.), as amended by subsection (a), is amended by adding at the end the following:

''SEC. 1802. COVERED GRANT ELIGIBILITY AND CRITERIA.

''(a) GRANT ELIGIBILITY.—

''(1) IN GENERAL.—

''(A) GENERAL ELIGIBILITY.—Except as provided in subparagraphs (B) and (C), any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

''(B) URBAN AREA SECURITY INITIATIVE.—Only a region shall be eligible to apply for a grant under the Urban Area Security Initiative of the Department, or any successor to such grant program.

''(C) STATE HOMELAND SECURITY GRANT PROGRAM.—Only a State shall be eligible to apply for a grant under the State Homeland Security Grant Program of the Department, or any successor to such grant program.

''(2) OTHER GRANT APPLICANTS.—

''(A) IN GENERAL.—Grants provided by the Department for improving homeland security, including to seaports, airports, and other transportation facilities, shall be allocated as described in section 1801(a).

''(B) CONSIDERATION.—Such grants shall be considered, to the extent determined appropriate by the Secretary, pursuant to the procedures and criteria established in this title, except that the eligibility requirements of paragraph (1) shall not apply.

''(3) CERTIFICATION OF REGIONS.—

''(A) IN GENERAL.—The Secretary shall certify a geographic area as a region if—

''(i) the geographic area meets the criteria under section 1807(10)(B) and (C); and

''(ii) the Secretary determines, based on an assessment of threat, vulnerability, and consequence, that certifying the geographic area as a region under this title is in the interest of national homeland security.

''(B) EXISTING URBAN AREA SECURITY INITIATIVE AREAS.—Notwithstanding subparagraphs (B) and (C) of section 1807(10), a geographic area that, on or before the date of enactment of the Homeland Security FORWARD Funding Act of 2005, was designated as a high-threat urban area for purposes of the Urban Area Security Initiative, shall be certified by the Secretary as a region unless the Secretary determines, based on an assessment of threat, vulnerability, and consequence, that certifying the geographic area as a region is not in the interest of national homeland security.

''(b) GRANT CRITERIA.—In awarding covered grants, the Secretary shall assist States, local governments, and operators of airports, ports, or similar facilities in achieving, maintaining, and enhancing the essential capabilities established by the Secretary under section 1803.

''(c) STATE HOMELAND SECURITY PLANS.—

''(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant shall submit to the Secretary a 3-year State homeland security plan that—

''(A) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

''(B) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

''(C) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

''(D) describes how the State intends—

''(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

''(ii) to use all Federal, State, and local resources available for the purpose of addressing such needs; and

''(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

''(E) is developed in consultation with and subject to appropriate comment by local governments within the State; and

''(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan.

''(2) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

''(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

''(e) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, directly eligible tribe, or operator of an airport, port, or similar facility may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

''(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants shall be submitted at such time as the Secretary may reasonably require for the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

''(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

''(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

''(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe or at the airport, port, or similar facility to which the application pertains;

''(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities specified in such plan or plans;

''(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

''(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

''(E) if the applicant is a region—

''(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

''(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant;

''(iii) a designation of a specific individual to serve as regional liaison; and

''(iv) a description of how the governmental entity administering the expenditure of funds under the covered grant plans to allocate the covered grant funds to States, local governments, and Indian tribes;

''(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds; and

''(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison.

''(5) REGIONAL APPLICATIONS.—

''(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

''(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

''(ii) shall supplement and avoid duplication with such State application; and

''(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

''(B) OPPORTUNITY FOR STATE REVIEW AND COMMENT.—

''(i) IN GENERAL.—To ensure coordination with an application submitted by a State or States, an applicant that is a region shall submit its application to each State within the boundaries of which any part of such region is located for review. Before awarding any covered grant to a region, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such region is located to comment to the Secretary on the consistency of the region's application with the State's homeland security plan. Any such comments and the underlying regional application shall be submitted to the Secretary concurrently with the submission of the State and regional applications.

''(ii) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a region with the applicable State homeland security plan or plans, and to approve any application of such region. The Secretary shall notify each State within the boundaries of which any part of such region is located of the approval of an application by such region.

''(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application; *Provided* That, in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

''(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

''(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

''(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

''(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

''(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

''(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

''(6) TRIBAL APPLICATIONS.—

''(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe shall submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

''(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

''(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

''(D) TRIBAL LIAISON.—A tribal liaison designated under paragraph (4)(G) shall—

''(i) coordinate with Federal, State, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

''(ii) administer, in consultation with State, local, regional, and private officials, covered grants awarded to such tribe.

''(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

''(F) TRIBES NOT RECEIVING DIRECT GRANTS.—An Indian tribe that does not receive a grant directly under this section is eligible to receive funds under a covered grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State as described in subsection (c). If a State fails to comply with section 1806(g)(1), the tribe may request payment under section 1806(h)(3) in the same manner as a local government.

''(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary under section 1805(a), the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

''(f) HOMELAND SECURITY GRANTS BOARD.—

''(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a Homeland Security Grants Board, consisting of—

''(A) the Secretary;

''(B) the Deputy Secretary of Homeland Security;

''(C) the Under Secretary for Emergency Preparedness and Response;

''(D) the Under Secretary for Border and Transportation Security;

''(E) the Under Secretary for Information Analysis and Infrastructure Protection;

''(F) the Under Secretary for Science and Technology; and

''(G) the Director of the Office of State and Local Government Coordination.

''(2) CHAIRMAN.—

''(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

''(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

''(3) RISK-BASED RANKING OF GRANT APPLICATIONS.—

''(A) PRIORITIZATION OF GRANTS.—The Board—

''(i) shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure; and

''(ii) in evaluating the threat to persons and critical infrastructure for purposes of prioritizing covered grants, shall give greater weight to threats of terrorism based on their specificity and credibility, including any pattern of repetition.

''(B) MINIMUM AMOUNTS.—

''(i) IN GENERAL.—After evaluating and prioritizing grant applications under subparagraph (A), the Board shall ensure that, for each fiscal year, each State that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for the State Homeland Security Grant Program, as described in section 1801(b)(1), for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of additional needs under subsection (c)(1)(C).

''(ii) OTHER ENTITIES.—Notwithstanding clause (i), the Board shall ensure that, for each fiscal year, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive 0.08 percent of the funds available for the State Homeland Security Grant Program, as described in section 1801(b)(1), for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of additional needs under subsection (c)(1)(C).

''(4) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in paragraph (1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.''.

SEC. 603. ESSENTIAL CAPABILITIES, TASK FORCES, AND STANDARDS.

The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.), as amended by section 602, is amended by adding at the end the following:

''SEC. 1803. ESSENTIAL CAPABILITIES FOR HOMELAND SECURITY.

''(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—

''(1) IN GENERAL.—For purposes of covered grants, the Secretary shall establish clearly defined essential capabilities for State and local government preparedness for terrorism, in consultation with—

''(A) the Task Force on Essential Capabilities established under section 1804;

''(B) the Under Secretaries for Emergency Preparedness and Response, Border and Transportation Security, Information Analysis and Infrastructure Protection, and Science and Technology, and the Director of the Office of State and Local Government Coordination;

''(C) the Secretary of Health and Human Services;

''(D) other appropriate Federal agencies;

''(E) State and local first responder agencies and officials; and

''(F) consensus-based standard making organizations responsible for setting standards relevant to the first responder community.

''(2) DEADLINES.—The Secretary shall—

''(A) establish essential capabilities under paragraph (1) within 30 days after receipt of the report under section 1804(b); and

''(B) regularly update such essential capabilities as necessary, but not less than every 3 years.

''(3) PROVISION OF ESSENTIAL CAPABILITIES.—The Secretary shall ensure that a detailed description of the essential capabilities established under paragraph (1) is provided promptly to the States and to Congress. The States shall make the essential capabilities available as necessary and appropriate to local governments and operators of airports, ports, and other similar facilities within their jurisdictions.

''(b) OBJECTIVES.—The Secretary shall ensure that essential capabilities established under subsection (a)(1) meet the following objectives:

''(1) SPECIFICITY.—The determination of essential capabilities specifically shall describe the training, planning, personnel, and equipment that different types of communities in the Nation should possess, or to which they should have access, in order to meet the Department's goals for terrorism preparedness based upon—

''(A) the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States;

''(B) the types of threats, vulnerabilities, geography, size, and other factors that the Secretary has determined to be applicable to each different type of community; and

''(C) the principles of regional coordination and mutual aid among State and local governments.

''(2) FLEXIBILITY.—The establishment of essential capabilities shall be sufficiently flexible to allow State and local government officials to set priorities based on particular needs, while reaching nationally determined terrorism preparedness levels within a specified time period.

''(3) MEASURABILITY.—The establishment of essential capabilities shall be designed to enable measurement of progress toward specific terrorism preparedness goals.

''(4) COMPREHENSIVENESS.—The determination of essential capabilities for terrorism preparedness shall be made within the context of a comprehensive State emergency management system.

''(c) FACTORS TO BE CONSIDERED.—

''(1) IN GENERAL.—In establishing essential capabilities under subsection (a)(1), the Secretary specifically shall consider the variables of threat, vulnerability, and consequences with respect to the Nation's population (including transient commuting and tourist populations) and critical infrastructure. Such consideration shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

''(2) CRITICAL INFRASTRUCTURE SECTORS.—The Secretary specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the Nation, urban and rural:

''(A) Agriculture.
''(B) Banking and finance.
''(C) Chemical industries.
''(D) The defense industrial base.
''(E) Emergency services.
''(F) Energy.
''(G) Food.
''(H) Government.
''(I) Postal and shipping.
''(J) Public health.
''(K) Information and telecommunications networks.
''(L) Transportation.
''(M) Water.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

''(3) TYPES OF THREAT.—The Secretary specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the Nation, urban and rural:

''(A) Biological threats.
''(B) Nuclear threats.
''(C) Radiological threats.
''(D) Incendiary threats.
''(E) Chemical threats.
''(F) Explosives.
''(G) Suicide bombers.
''(H) Cyber threats.
''(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

''(4) CONSIDERATION OF ADDITIONAL FACTORS.—In establishing essential capabilities under subsection (a)(1), the Secretary shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Secretary has determined to exist.

''SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES.

''(a) ESTABLISHMENT.—To assist the Secretary in establishing essential capabilities under section 1803(a)(1), the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Essential Capabilities.

''(b) REPORT.—

''(1) IN GENERAL.—The Task Force shall submit to the Secretary, not later than 9 months after its establishment by the Secretary under subsection (a) and every 3 years thereafter, a report on its recommendations for essential capabilities for preparedness for terrorism.

''(2) CONTENTS.—The report shall—

''(A) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

''(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

''(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

''(D) include such additional matters as the Secretary may specify in order to further the terrorism preparedness capabilities of first responders; and

''(E) include such revisions to the contents of past reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

''(3) CONSISTENCY WITH FEDERAL WORKING GROUP.—The Task Force shall ensure that its recommendations for essential capabilities are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

''(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

''(5) PRIOR MEASURES.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent or prepare for terrorist attacks.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The Task Force shall consist of 35 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

''(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

''(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

''(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

''(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing 1 of the 2 major political parties, an equal number of elected officials shall be selected from each such party.

''(2) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate the selection with the Secretary of Health and Human Services.

''(3) EX OFFICIO MEMBERS.—The Secretary and the Secretary of Health and Human Services shall each designate 1 or more officers of their respective Departments to serve as ex officio members of the Task Force. One of the ex officio members from the Department of Homeland Security shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 App. U.S.C.).

''(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

''SEC. 1805. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

''(a) EQUIPMENT STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office of State and Local Government Coordination, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment

for purposes of section 1802(e)(7). Such standards—

''(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

''(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

''(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

''(D) shall cover all appropriate uses of the equipment.

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

''(A) Thermal imaging equipment.

''(B) Radiation detection and analysis equipment.

''(C) Biological detection and analysis equipment.

''(D) Chemical detection and analysis equipment.

''(E) Decontamination and sterilization equipment.

''(F) Personal protective equipment, including garments, boots, gloves, and hoods, and other protective clothing.

''(G) Respiratory protection equipment.

''(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

''(I) Explosive mitigation devices and explosive detection and analysis equipment.

''(J) Containment vessels.

''(K) Contaminant-resistant vehicles.

''(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

''(b) TRAINING STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office of State and Local Government Coordination, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

''(A) enable first responders to prevent, prepare for, respond to, and mitigate terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

''(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

''(A) Regional planning.

''(B) Joint exercises.

''(C) Intelligence collection, analysis, and sharing.

''(D) Emergency notification of affected populations.

''(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

''(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

''(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

''(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

''(1) the National Institute of Standards and Technology;

''(2) the National Fire Protection Association;

''(3) the National Association of County and City Health Officials;

''(4) the Association of State and Territorial Health Officials;

''(5) the American National Standards Institute;

''(6) the National Institute of Justice;

''(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

''(8) the National Public Health Performance Standards Program;

''(9) the National Institute for Occupational Safety and Health;

''(10) ASTM International;

''(11) the International Safety Equipment Association;

''(12) the Emergency Management Accreditation Program;

''(13) the National Domestic Preparedness Consortium; and

''(14) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

''(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.''.

SEC. 604. EFFECTIVE ADMINISTRATION OF HOMELAND SECURITY GRANTS.

(a) USE OF GRANT FUNDS AND ACCOUNTABILITY.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.), as amended by sections 602 and 603, is amended by adding at the end the following:

''SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

''(a) IN GENERAL.—A covered grant may be used for—

''(1) purchasing, upgrading, or maintaining equipment, including computer software, to enhance terrorism preparedness and response;

''(2) exercises to strengthen terrorism preparedness and response;

''(3) training for prevention (including detection) of, preparedness for, or response to attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

''(4) developing or updating response plans;

''(5) establishing or enhancing mechanisms for sharing terrorism threat information;

''(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, lifecycle systems design, product and technology evaluation, and prototype development for terrorism preparedness and response purposes;

''(7) additional personnel costs resulting from—

''(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

''(B) travel to and participation in exercises and training in the use of equipment and on prevention activities;

''(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities; and

''(D) participation in information, investigative, and intelligence-sharing activities specifically related to terrorism prevention;

''(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

''(9) target hardening to reduce the vulnerability of high-value targets, as determined by the Secretary;

''(10) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

''(A) $1,000,000 per project; or

''(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

''(11) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

''(12) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

''(13) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prepare for and respond to an act of terrorism;

''(14) paying of administrative expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant; and

''(15) other appropriate activities as determined by the Secretary.

''(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

''(1) to supplant State or local funds that have been obligated for a homeland security or other first responder-related project;

''(2) to construct buildings or other physical facilities, except for—

''(A) activities under section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196); and

''(B) upgrading facilities to protect against, test for, and treat the effects of biological agents, which shall be included in the homeland security plan approved by the Secretary under section 1802(c);

''(3) to acquire land; or

''(4) for any State or local government cost-sharing contribution.

''(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary under section 1803.

''(d) REIMBURSEMENT OF COSTS.—In addition to the activities described in subsection (a), a covered grant may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in

training covered by this section. Any such reimbursement shall not be considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(e) ASSISTANCE REQUIREMENT.—The Secretary may not request that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

''(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

''(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

''(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

''(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

''(3) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit a quarterly report to the Secretary not later than 30 days after the end of each fiscal quarter. Each such report shall include, for each recipient of a covered grant or a pass-through under paragraph (1)—

''(A) the amount obligated to that recipient in that quarter;

''(B) the amount expended by that recipient in that quarter; and

''(C) a summary description of the items purchased by such recipient with such amount.

''(4) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each fiscal year. Each recipient of a covered grant that is a region shall simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe shall simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report shall include the following:

''(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

''(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

''(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

''(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

''(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

''(5) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (4) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

''(6) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (4) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office of State and Local Government Coordination.

''(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

''(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (g)(1) within 45 days after receiving funds under the grant, the Secretary may—

''(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

''(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

''(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

''(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

''(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

''(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

''(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1802(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

''(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

''(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

''(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

''(ii) the State has failed to pass through funds or resources in accordance with subsection (g)(1); and

''(iii) the local government complies with subparagraph (B).

''(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

''(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

''(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

''(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (g)(1); and

''(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

''(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

''(i) shall not affect any payment to another local government under this paragraph; and

''(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

''(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

''(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to Congress by December 31 of each year—

''(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State, region, and directly eligible tribe in the preceding fiscal year;

''(2) containing information on the use of such grant funds by grantees; and

''(3) describing—

''(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established under section 1803(a) as a result of the expenditure of covered grant funds during the preceding fiscal year; and

''(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established under section 1803(a).''.

(b) SENSE OF CONGRESS REGARDING INTEROPERABLE COMMUNICATIONS.—

(1) FINDING.—Congress finds that—

(A) many emergency response providers (as defined under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this title) working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and

(B) their inability to do so threatens the public's safety and may result in unnecessary loss of lives and property.

(2) SENSE OF CONGRESS.—It is the sense of Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the emergency response provider community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national voluntary consensus standards for interoperability.

(c) SENSE OF CONGRESS REGARDING CITIZEN CORPS COUNCILS.—

(1) FINDING.—Congress finds that Citizen Corps councils help to enhance local citizen participation in terrorism preparedness by coordinating multiple Citizen Corps programs, developing community action plans, assessing possible threats, and identifying local resources.

(2) SENSE OF CONGRESS.—It is the sense of Congress that individual Citizen Corps councils should seek to enhance the preparedness and response capabilities of all organizations participating in the councils, including by providing funding to as many of their participating organizations as practicable to promote local terrorism preparedness programs.

(d) REQUIRED COORDINATION.—The Secretary of Homeland Security shall ensure that there is effective and ongoing coordination of Federal efforts to prevent, prepare for, and respond to acts of terrorism and other major disasters and emergencies among the divisions of the Department of Homeland Security, including the Directorate of Emergency Preparedness and Response and the Office for State and Local Government Coordination and Preparedness.

(e) COORDINATION OF INDUSTRY EFFORTS.—Section 102(f) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by striking ''and'' after the semicolon at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following:

''(8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack.''.

(f) STUDY REGARDING NATIONWIDE EMERGENCY NOTIFICATION SYSTEM.—

(1) STUDY.—The Secretary of Homeland Security, in consultation with the heads of other appropriate Federal agencies and representatives of providers and participants in the telecommunications industry, shall conduct a study to determine whether it is cost effective, efficient, and feasible to establish and implement an emergency telephonic alert notification system that will—

(A) alert persons in the United States of imminent or current hazardous events caused by acts of terrorism; and

(B) provide information to individuals regarding appropriate measures that may be undertaken to alleviate or minimize threats to their safety and welfare posed by such events.

(2) TECHNOLOGIES TO CONSIDER.—In conducting the study under paragraph (1), the Secretary shall consider the use of the telephone, wireless communications, and other existing communications networks to provide such notification.

(3) REPORT.—Not later than 9 months after the date of enactment of this title, the Secretary shall submit to Congress a report regarding the conclusions of the study conducted under paragraph (1).

(g) STUDY OF EXPANSION OF AREA OF JURISDICTION OF OFFICE OF NATIONAL CAPITAL REGION COORDINATION.—

(1) STUDY.—The Secretary of Homeland Security, acting through the Director of the Office of National Capital Region Coordination, shall conduct a study of the feasibility and desirability of modifying the definition of ''National Capital Region'' applicable under section 882 of the Homeland Security Act of 2002 to expand the geographic area under the jurisdiction of the Office of National Capital Region Coordination.

(2) FACTORS.—In conducting the study under paragraph (1), the Secretary shall analyze whether expanding the geographic area under the jurisdiction of the Office of National Region Coordination will—

(A) promote coordination among State and local governments within the Region, including regional governing bodies, and coordination of the efforts of first responders; and

(B) enhance the ability of such State and local governments and the Federal Government to prevent and respond to a terrorist attack within the Region.

(3) REPORT.—Not later than 6 months after the date of the enactment of this title, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations (including recommendations for legislation to amend section 882 of the Homeland Security Act of 2002) as the Secretary considers appropriate.

SEC. 605. IMPLEMENTATION; DEFINITIONS; TABLE OF CONTENTS.

(a) TECHNICAL AND CONFORMING AMENDMENT.—Section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714) is amended—

(1) by striking subsection (c)(3);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

''(c) ADMINISTRATION.—Grants under this section shall be administered in accordance with title 18 of the Homeland Security Act of 2002.''.

(b) TEMPORARY LIMITATIONS ON APPLICATION.—

(1) 1-YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as added by this title, shall not apply during the 1-year period beginning on the date of enactment of this title—

(A) subsections (b), (c), and (e)(4) (A) and (B) of section 1802; and

(B) in section 1802(f)(3)(A)(i), the phrase ''by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis,''.

(2) 2-YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as added by this title, shall not apply during the 2-year period beginning on the date of enactment of this title—

(A) subparagraphs (D) and (E) of section 1806(g)(4); and

(B) section 1806(i)(3).

(c) DEFINITIONS.—

(1) TITLE XVIII.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.), as amended by sections 602, 603, and 604, is amended by adding at the end the following:

''SEC. 1807. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the Homeland Security Grants Board established under section 1802(f).

''(2) CONSEQUENCE.—The term 'consequence' means the assessment of the effect of a completed attack.

''(3) COVERED GRANT.—The term 'covered grant' means any grant to which this title applies under section 1801(b).

''(4) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

''(A) meets the criteria for inclusion in the qualified applicant pool for self-governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

''(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

''(C)(i) is located on, or within 5 miles of, an international border or waterway;

''(ii) is located within 5 miles of a facility designated as high-risk critical infrastructure by the Secretary;

''(iii) is located within or contiguous to 1 of the 50 largest metropolitan statistical areas in the United States; or

''(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

''(5) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second-highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

''(6) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

''(7) ESSENTIAL CAPABILITIES.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to acts of terrorism consistent with established practices.

''(8) FIRST RESPONDER.—The term 'first responder' shall have the same meaning as the term 'emergency response provider' under section 2.

''(9) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(10) REGION.—The term 'region' means any geographic area—

''(A) certified by the Secretary under section 1802(a)(3);

''(B) consisting of all or parts of 2 or more counties, municipalities, or other local governments and including a city with a core population exceeding 500,000 according to the most recent estimate available from the United States Census; and

''(C) that, for purposes of an application for a covered grant—

''(i) is represented by 1 or more local governments or governmental agencies within such geographic area; and

''(ii) is established by law or by agreement of 2 or more such local governments or governmental agencies, such as through a mutual aid agreement.

''(11) RISK-BASED FUNDING.—The term 'risk-based funding' means the allocation of funds based on an assessment of threat, vulnerability, and consequence.

''(12) TASK FORCE.—The term 'Task Force' means the Task Force on Essential Capabilities established under section 1804.

''(13) THREAT.—The term 'threat' means the assessment of the plans, intentions, and capability of an adversary to implement an identified attack scenario.

''(14) VULNERABILITY.—The term 'vulnerability' means the degree to which a facility is available or accessible to an attack, including the degree to which the facility is inherently secure or has been hardened against such an attack.''.

(2) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking ''includes'' and all that follows and inserting ''includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.''.

(d) TABLE OF CONTENTS.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101 note) is amended in the table of contents by adding at the end the following:

''TITLE XVIII—RISK-BASED FUNDING FOR HOMELAND SECURITY

''Sec. 1801. Risk-based funding for homeland security.
''Sec. 1802. Covered grant eligibility and criteria.
''Sec. 1803. Essential capabilities for homeland security.
''Sec. 1804. Task Force on Essential Capabilities.
''Sec. 1805. National standards for first responder equipment and training.
''Sec. 1806. Use of funds and accountability requirements.
''Sec. 1807. Definitions.''.

SA 1204. Mr. KYL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—BORDER ENFORCEMENT AND VISA SECURITY

SEC. __01.(a) Not later than December 31, 2006, the Secretary of Homeland Security shall make the expedited removal procedures under section 235 of the Immigration and Nationality Act (8 U.S.C. 1225) available in all border patrol sectors on the borders of the United States.

(b) Section 235(b)(1)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(A)(i)) is amended by inserting ''a supervisory'' before ''officer shall''.

SEC. __02.(a) The Secretary of Homeland Security 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 Forensic Document Laboratory of the Immigration and Customs Enforcement.

(b) The Secretary of Homeland Security shall provide all customs and border protection officers with access to the Forensic Document Laboratory.

SEC. __03. Section 303 of Public Law 107–173 (8 U.S.C. 1732) is amended—

(1) in the header, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(2) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the Attorney General'' and inserting ''The Secretary of Homeland Security''; and

(B) by striking ''visas and'' each place it appears and inserting ''visas, evidence of status, and'';

(3) by redesignating subsection (d) as subsection (e); and

(4) 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 Department of Homeland Security, which may be used as evidence of immigrant, nonimmigrant, parole, asylee, or refugee status, shall be machine-readable, tamper-resistant, and allow biometric authentication.''.

SEC. __04. Section 222(g) of the Immigration and Nationality Act (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1), 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. __05.(a) Section 212 of the Immigration and Nationality Act (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 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) 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.''.

(b) Section 215 of the Immigration and Nationality Act (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g); and

(2) 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.''.

(c) Section 235(d) of the Immigration and Nationality Act (8 U.S.C. 1185(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, but is not regarded as seeking admission under section 101(a)(13)(C).''.

(d) Section 252 of the Immigration and Nationality Act (8 U.S.C. 1282) is amended by inserting ''Immigration officers are authorized to collect biometric data from any alien crewman seeking permission to land temporarily in the United States.'' after ''this title.''.

(e) Not later than 6 months after the date of enactment of this Act, the Secretary shall submit a report to Congress on the full implementation of the exit portion of US-VISIT.

SEC. __06.(a) Section 236(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1226(a)(2)) is amended—

(1) by striking ''on'';

(2) in subparagraph (A)—

(A) by inserting ''except as provided under subparagraph (B), upon the giving of a''; and

(B) by striking ''or'' at the end;

(3) by redesignating subparagraph (B) as subparagraph (C); and

(4) by inserting after subparagraph (A) the following:

''(B) if the alien is a national of a noncontiguous country, has not been admitted or paroled into the United States, and was apprehended within 100 miles of the international border of the United States or presents a flight risk, as determined by the Secretary of Homeland Security, upon the giving of a bond of at least $5,000 with security approved by, and containing conditions prescribed by, the Secretary of Homeland Security or the Attorney General; or''.

(b) Not later than 2 years after the effective date of this Act, the Secretary of Homeland Security shall submit a report to Congress that summarizes the implementation of the amendment made by subsection (a).

SEC. __07. Section 243(d) of the Immigration and Nationality Act (8 U.S.C. 1253(d)) is amended—

(1) by striking ''On being notified'' and inserting the following:

''(1) IN GENERAL.—Upon notification''; and

(2) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''; and

(3) by adding at the end the following:

''(2) DENIAL OF ADMISSION.—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 deny admission to any citizen, subject, national or resident of that country until the country accepts the alien that was ordered removed.''.

SEC. __08.(a) Section 241(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(5)) is amended—

(1) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(2) by adding at the end the following: ''Reinstatement under this paragraph shall not require a proceeding under section 240.''.

(b)(1) The amendment made by subsection (a)(1) shall take effect as if enacted on March 1, 2003.

(2) The amendments made by subsection (a) shall take effect on September 30, 1996, as if included in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Division C of Public Law 104–208).

SEC. __09.(a) The Attorney General and the Secretary of Homeland Security shall continue to operate and implement the Institutional Removal Program, which identifies removable criminal aliens in Federal and State correctional facilities, ensures such aliens are not released into the community, and removes such aliens from the United States after the completion of their sentences.

(b) The Institutional Removal Program shall be made available to all States.

(c) Law enforcement officers of a State or political subdivision of a State are authorized to hold an illegal alien for a period of up to 14 days after the alien has completed the alien's State prison sentence in order to effectuate the transfer of the alien to Federal custody when the alien is removable or not lawfully present in the United States.

(d) Technology, such as videoconferencing, shall be used to the maximum extent practicable in order to make the Institutional Removal Program available to facilities in remote locations.

SA 1205. Mr. SHELBY (for himself, Mr. SARBANES, Mr. REED, Mrs. DOLE,

Mr. DODD, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. BYRD, Mrs. CLINTON, Mr. LIEBERMAN, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. KENNEDY, and Mr. KERRY) submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, line 18, strike ''$2,694,300,000'' and insert ''$3,760,300,000''.

On page 78, strike line 25 and all that follows through ''(E)'' on page 79, line 5, and insert the following: ''security grants; and

''(D)''.

On page 79, between 22 and 23, insert the following:

(7) $1,166,000,000 for transit security grants, of which—

(A) $790,000,000 shall be for grants for public transportation agencies for allowable capital security improvements;

(B) $333,000,000 shall be for grants for public transportation agencies for allowable operational security improvements; and

(C) $43,000,000 shall be for grants to public or private entities to conduct research into, and demonstration of, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems:

SA 1206. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 83, line 26, strike the period at the end and insert '': *Provided further*, That of the total amount made available under this heading, $52,600,000 shall be for the United States Fire Administration.''.

SA 1207. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) Not later than September 30, 2006, the Secretary of Homeland Security shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives that includes—

(1) the results of the survey under subsection (c); and

(2) a plan to implement changes to address problems identified in the survey.

(b) Not later than June 30, 2006, the Secretary of Homeland Security shall submit an interim report to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Homeland Security of the House of Representatives on the specific design of the survey under subsection (c).

(c) In preparing the report under subsection (a), the Secretary of Homeland Security shall conduct a survey of State and local government emergency officials that—

(1) involve enough respondents to get an adequate, representational response from police, fire, medical, and emergency planners on the regional, State, county, and municipal levels, and other State and local homeland security officials as determined by the Secretary; and

(2) identifies problems relating to the effectiveness and user-friendliness of programs in which the Department of Homeland Security interacts with State and local officials, including grant management, intelligence sharing, training, incident management, regional coordination, critical infrastructure prioritization, and long-term homeland security planning.

SA 1208. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

(a) FINDINGS.—The Senate finds that—

(1) On February 6, 2002, Director of Central Intelligence George Tenet testified that ''[A]l Qaeda or other terrorist groups might also try to launch conventional attacks against the chemical or nuclear industrial infrastructure of the United States to cause widespread toxic or radiological damage.''

(2) On April 27, 2005, the GAO found that ''Experts agree that the nation's chemical facilities present an attractive target for terrorists intent on causing massive damage. For example, the Department of Justice has concluded that the risk of an attempt in the foreseeable future to cause an industrial chemical release is both real and credible. Terrorist attacks involving the theft or release of certain chemicals could significantly impact the health and safety of millions of Americans, disrupt the local or regional economy, or impact other critical infrastructures that rely on chemicals, such as drinking water and wastewater treatment systems.''

(3) As of May 2005, according to data collected pursuant to the Risk Management Plan (RMP) of the Environmental Protection Agency (EPA), a worst-case release of chemicals from 2237 facilities would potentially affect between 10,000 and 99,999 people, a release from 493 facilities would potentially affect between 100,000 and 999,000, and a release from 111 facilities would potentially affect over one million.

(4) On April 27, 2005, the GAO found that EPA RMP data was based on a release from a single vessel or pipe rather than the entire quantity on site and that ''[A]n attack that breached multiple chemical vessels simultaneously could result in a larger release with potentially more severe consequences than those outlined in 'worst-case' scenarios.''

(5) On April 27, 2005, the GAO found that ''Despite efforts by DHS to assess facility vulnerabilities and suggest security improvements, no one has comprehensively assessed security at facilities that house chemicals nationwide.'' GAO further testified that ''EPA officials estimated in 2003, that voluntary initiatives led by industry associations only reach a portion of the 15,000 RMP facilities. Further, EPA and DHS have stated publicly that voluntary efforts alone are not sufficient to assure the public of the industry's preparedness.''

(6) On June 15, 2005, Thomas P. Dunne, Deputy Assistant Administrator for the Office of Solid Waste and Emergency Response of the EPA testified that ''[O]n1y a fraction of U.S. hazardous chemical facilities are currently subject to Federal security requirements'' and that ''we cannot be sure that every high-risk chemical facility has taken voluntary action to secure itself against terrorism.''

(7) On June 15, 2005, Robert Stephan, Acting Undersecretary for Information Analysis and Infrastructure Protection and Assistant Secretary for Infrastructure Protection at the Department of Homeland Security testified that that the Department ''has concluded that from the regulatory perspective, the existing patchwork of authorities does not permit us to regulate the industry effectively.'' Stephen further testified that ''[I]t has become clear that the entirely voluntary efforts of [chemical facility] companies alone will not sufficiently address security for the entire sector'' and that ''The Department should develop enforceable performance standards . . .''

(8) The Senate Committee on Homeland Security and Governmental Affairs, through a series of valuable and wide-ranging hearings, has demonstrated bipartisan commitment to effective Congressional action to protect Americans against a possible terrorist attack against chemical facilities.

(b) SENSE OF THE SENATE.—It is the Sense of the Senate that the Congress should pass legislation establishing enforceable federal standards to protect against a terrorist attack on chemical facilities within the United States.

SA 1209. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. QUADRENNIAL HOMELAND DEFENSE REVIEW.

(a) IN GENERAL.—

(1) FREQUENCY AND SCOPE.—Beginning in fiscal year 2008, and every 4 years thereafter, the Secretary of Homeland Security shall conduct every 4 years, during a year following a year evenly divisible by 4, a comprehensive examination of the national homeland defense strategy, inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States with a view toward determining and expressing the homeland defense strategy of the United States and establishing a homeland defense program for the next 20 years. Each review under this paragraph shall be known as the ''quadrennial homeland defense review''.

(2) CONSULTATION.—Each quadrennial homeland defense review under paragraph (1) shall be conducted in consultation with the Attorney General of the United States and the Secretaries of State, Defense, Health and Human Services, and the Treasury.

(b) CONTENTS OF REVIEW.—Each quadrennial homeland defense review shall—

(1) delineate a national homeland defense strategy consistent with the most recent National Response Plan prepared under Homeland Security Presidential Directive 5 or any directive meant to replace or augment that directive;

(2) describe the inter-agency cooperation, preparedness of Federal response assets, infrastructure, budget plan, and other elements of the homeland defense program and policies of the United States associated with

that national homeland defense strategy required to execute successfully the full range of missions called for in the national homeland defense strategy delineated under paragraph (1); and

(3) identify—

(A) the budget plan required to provide sufficient resources to successfully execute the full range of missions called for in that national homeland defense strategy at a low-to-moderate level of risk, and

(B) any additional resources required to achieve such a level of risk.

(c) LEVEL OF RISK.—The assessment of the level of risk for purposes of subsection (b)(3) shall be conducted by the Director of National Intelligence.

(d) REPORTING.—

(1) IN GENERAL.—The Secretary of Homeland Security shall submit a report regarding each quadrennial homeland defense review to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives. The report shall be submitted not later than September 30 of the year in which the review is conducted.

(2) CONTENTS OF REPORT.—The report submitted under paragraph (1) shall include—

(A) the results of the quadrennial homeland defense review;

(B) the threats to the assumed or defined national homeland security interests of the United States that were examined for the purposes of the review and the scenarios developed in the examination of those threats;

(C) the status of cooperation among Federal agencies in the effort to promote national homeland security;

(D) the status of cooperation between the Federal Government and State governments in preparing for emergency response to threats to national homeland security, and

(E) any other matter the Secretary of Homeland Security considers appropriate.

SA 1210. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. RAIL TUNNEL SECURITY RESEARCH.

(a) FINDINGS.—The Senate finds that—

(1) railroad tunnels, and underground stations have been identified as particularly high risk terrorist targets because of the potential for large passenger volumes, confined spaces, relatively unrestricted access, and the potential for network disruptions and significant economic, political and social impact;

(2) many rail tunnels have safety problems including structural deficiencies, ventilation problems, lack of communications equipment and insufficient emergency access and exits;

(3) there are more than 898 miles of rail tunnels in transit systems across the country;

(4)(A) security experts have identified a number of technology and training needs to prevent attacks on tunnels and to mitigate and remediate the impact of such attacks;

(B) technological needs include detection systems, dispersal control, and decontamination techniques; and

(C) training for emergency response to a variety of scenarios is also needed; and

(5) the Department of Transportations Transportation Technology Center in Pueblo, Colorado—

(A) is one of the Nation's largest and most advanced rail safety research centers in the Nation; and

(B) offers full-scale testing, dynamic modeling, performance monitoring, technical analyses, feasibility and economic studies as well as training classes to prepare first responders and test new safety technologies.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Department of Homeland Security is urged to invest in research to promote tunnel rail safety as well as training to ensure first responders are prepared to respond to rail tunnel emergencies; and

(2) employing existing Federal facilities in this effort can result in efficiencies and permit this important research to proceed at decreased cost to the taxpayer and with minimal interference with ongoing passenger and freight rail traffic.

SA 1211. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . INTEROPERABLE COMMUNICATION.

On page 79, strikes lines 21 and 22 and insert in lieu thereof the following:

(6) $374,300,000 for training, exercises, technical assistance, and other programs: Provided, That not less than $65,400,000 shall be used by States, units of local government, local law enforcement agencies, and local fire departments to purchase or improve communication systems to allow for real-time, interoperable communication between first responders

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SA 1212. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 56, line 19, strike ''$124,620,000'' and insert ''$115,160,000''.

On page 57, line 1, strike ''$146,322,000'' and insert ''$135,572,000''.

On page 57, line 17, strike ''$18,325,000'' and insert ''$17,035,000''.

On page 57, line 22, strike ''$286,540,000'' and insert ''$265,040,000''.

On page 77, line 18, strike ''$2,694,300,000'' and insert ''2,737,300,000''.

On page 79, line 22, strike the colon and insert a period.

On page 79, between lines 22 and 23, insert the following:

(7) $43,000,000 for non-urban communities that are not eligible for the Urban Area Security Initiative grants, distributed at the discretion of the Secretary of Homeland Security based on risks, threats, and vulnerabilities. When distributing these funds the Secretary should consider and give preference to communities with close proximity to international borders, chemical facilities, nuclear power facilities, inland waterway infrastructure, rail transportation infrastructure and major U.S. water and land ports and airports:

SA 1213. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 56, line 19, strike ''$124,620,000'' and insert ''$115,160,000''.

On page 57, line 1, strike ''$146,322,000'' and insert ''$135,572,000''.

On page 57, line 17, strike ''$18,325,000'' and insert ''$17,035,000''.

On page 57, line 22, strike ''$286,540,000'' and insert ''$265,040,000''.

On page 77, line 18, strike ''$2,694,300,000'' and insert ''2,737,300,000''.

On page 79, line 22, strike the colon and insert a period.

On page 79, between lines 22 and 23, insert the following:

(7) $43,000,000 for interoperable communications equipment grants:

SA 1214. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 11 and 12, insert the following:

SEC. 519. (a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (b) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this Act.

SA 1215. Mrs. FEINSTEIN (for herself, Mr. CORNYN, Mr. LAUTENBERG, Mrs. BOXER, Mrs. HUTCHISON, Mr. KERRY, Mr. MARTINEZ, Mr. SCHUMER, Mr. NELSON of Florida, Mrs. CLINTON, Mr. CORZINE, and Mr. KENNEDY) proposed an amendment to amendment SA 1142 proposed by Ms. COLLINS (for herself, Mr. LIEBERMAN, Mr. DEWINE, Mr. COBURN, Mr. AKAKA, Mr. CARPER, Mr. SALAZAR, Mr. COLEMAN, Mr. VOINOVICH, Mr. REED, Mr. BINGAMAN, and Mr. HARKIN) to the bill H.R. 2360, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2006, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

TITLE VI—HOMELAND SECURITY GRANT ENHANCEMENT

SEC. 601. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Funding Our Risks With Appropriate Resource Disbursement Act of 2005'' or the ''Homeland Security FORWARD Funding Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

SEC. 602. RISK-BASED FUNDING FOR HOMELAND SECURITY.

(a) RISK-BASED FUNDING IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.) is amended by adding at the end the following:

''TITLE XVIII—RISK-BASED FUNDING FOR HOMELAND SECURITY

''SEC. 1801. RISK-BASED FUNDING FOR HOMELAND SECURITY.

''(a) RISK-BASED FUNDING.—The Secretary shall ensure that homeland security grants are allocated based on an assessment of threat, vulnerability, and consequence to the maximum extent practicable.

''(b) COVERED GRANTS.—This title applies to grants provided by the Department to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, or mitigate threatened or actual terrorist attacks, especially those involving weapons of mass destruction, and grants provided by the Department for improving homeland security, including the following:

''(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

''(2) URBAN AREA SECURITY INITIATIVE.—The Urban Area Security Initiative of the Department, or any successor to such grant program.

''(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

''(4) CITIZEN CORPS PROGRAM.—The Citizen Corps Program of the Department, or any successor to such grant program.

''(c) EXCLUDED PROGRAMS.—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

''(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

''(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

''(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.), the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.), and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

''(d) EFFECT ON COVERED GRANTS.—Nothing in this Act shall be construed to require the elimination of a covered grant program.''.

(b) COVERED GRANT ELIGIBILITY AND CRITERIA.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.), as amended by subsection (a), is amended by adding at the end the following:

''SEC. 1802. COVERED GRANT ELIGIBILITY AND CRITERIA.

''(a) GRANT ELIGIBILITY.—

''(1) IN GENERAL.—

''(A) GENERAL ELIGIBILITY.—Except as provided in subparagraphs (B) and (C), any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

''(B) URBAN AREA SECURITY INITIATIVE.—Only a region shall be eligible to apply for a grant under the Urban Area Security Initiative of the Department, or any successor to such grant program.

''(C) STATE HOMELAND SECURITY GRANT PROGRAM.—Only a State shall be eligible to apply for a grant under the State Homeland Security Grant Program of the Department, or any successor to such grant program.

''(2) OTHER GRANT APPLICANTS.—

''(A) IN GENERAL.—Grants provided by the Department for improving homeland security, including to seaports, airports, and other transportation facilities, shall be allocated as described in section 1801(a).

''(B) CONSIDERATION.—Such grants shall be considered, to the extent determined appropriate by the Secretary, pursuant to the procedures and criteria established in this title, except that the eligibility requirements of paragraph (1) shall not apply.

''(3) CERTIFICATION OF REGIONS.—

''(A) IN GENERAL.—The Secretary shall certify a geographic area as a region if—

''(i) the geographic area meets the criteria under section 1807(10)(B) and (C); and

''(ii) the Secretary determines, based on an assessment of threat, vulnerability, and consequence, that certifying the geographic area as a region under this title is in the interest of national homeland security.

''(B) EXISTING URBAN AREA SECURITY INITIATIVE AREAS.—Notwithstanding subparagraphs (B) and (C) of section 1807(10), a geographic area that, on or before the date of enactment of the Homeland Security FORWARD Funding Act of 2005, was designated as a high-threat urban area for purposes of the Urban Area Security Initiative, shall be certified by the Secretary as a region unless the Secretary determines, based on an assessment of threat, vulnerability, and consequence, that certifying the geographic area as a region is not in the interest of national homeland security.

''(b) GRANT CRITERIA.—In awarding covered grants, the Secretary shall assist States, local governments, and operators of airports, ports, or similar facilities in achieving, maintaining, and enhancing the essential capabilities established by the Secretary under section 1803.

''(c) STATE HOMELAND SECURITY PLANS.—

''(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant shall submit to the Secretary a 3-year State homeland security plan that—

''(A) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

''(B) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

''(C) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

''(D) describes how the State intends—

''(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

''(ii) to use all Federal, State, and local resources available for the purpose of addressing such needs; and

''(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

''(E) is developed in consultation with and subject to appropriate comment by local governments within the State; and

''(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan.

''(2) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

''(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

''(e) APPLICATION FOR GRANT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, directly eligible tribe, or operator of an airport, port, or similar facility may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

''(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants shall be submitted at such time as the Secretary may reasonably require for the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

''(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

''(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

''(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe or at the airport, port, or similar facility to which the application pertains;

''(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities specified in such plan or plans;

''(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

''(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

''(E) if the applicant is a region—

''(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

''(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant;

''(iii) a designation of a specific individual to serve as regional liaison; and

''(iv) a description of how the governmental entity administering the expenditure of funds under the covered grant plans to allocate the covered grant funds to States, local governments, and Indian tribes;

''(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds; and

''(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison.

''(5) REGIONAL APPLICATIONS.—

''(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

''(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

''(ii) shall supplement and avoid duplication with such State application; and

''(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

''(B) OPPORTUNITY FOR STATE REVIEW AND COMMENT.—

''(i) IN GENERAL.—To ensure coordination with an application submitted by a State or States, an applicant that is a region shall submit its application to each State within the boundaries of which any part of such region is located for review. Before awarding any covered grant to a region, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such region is located to comment to the Secretary on the consistency of the region's application with the State's homeland security plan. Any such comments and the underlying regional application shall be submitted to the Secretary concurrently with the submission of the State and regional applications.

''(ii) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a region with the applicable State homeland security plan or plans, and to approve any application of such region. The Secretary shall notify each State within the boundaries of which any part of such region is located of the approval of an application by such region.

''(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application; *Provided* That, in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

''(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

''(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

''(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

''(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

''(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

''(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

''(6) TRIBAL APPLICATIONS.—

''(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe shall submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

''(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

''(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

''(D) TRIBAL LIAISON.—A tribal liaison designated under paragraph (4)(G) shall—

''(i) coordinate with Federal, State, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

''(ii) administer, in consultation with State, local, regional, and private officials, covered grants awarded to such tribe.

''(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

''(F) TRIBES NOT RECEIVING DIRECT GRANTS.—An Indian tribe that does not receive a grant directly under this section is eligible to receive funds under a covered grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State as described in subsection (c). If a State fails to comply with section 1806(g)(1), the tribe may request payment under section 1806(h)(3) in the same manner as a local government.

''(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary under section 1805(a), the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

''(f) HOMELAND SECURITY GRANTS BOARD.—

''(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a Homeland Security Grants Board, consisting of—

''(A) the Secretary;

''(B) the Deputy Secretary of Homeland Security;

''(C) the Under Secretary for Emergency Preparedness and Response;

''(D) the Under Secretary for Border and Transportation Security;

''(E) the Under Secretary for Information Analysis and Infrastructure Protection;

''(F) the Under Secretary for Science and Technology; and

''(G) the Director of the Office of State and Local Government Coordination.

''(2) CHAIRMAN.—

''(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

''(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

''(3) RISK-BASED RANKING OF GRANT APPLICATIONS.—

''(A) PRIORITIZATION OF GRANTS.—The Board—

''(i) shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons and critical infrastructure; and

''(ii) in evaluating the threat to persons and critical infrastructure for purposes of prioritizing covered grants, shall give greater weight to threats of terrorism based on their specificity and credibility, including any pattern of repetition.

''(B) MINIMUM AMOUNTS.—

''(i) IN GENERAL.—After evaluating and prioritizing grant applications under subparagraph (A), the Board shall ensure that, for each fiscal year, each State that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for the State Homeland Security Grant Program, as described in section 1801(b)(1), for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of additional needs under subsection (c)(1)(C).

''(ii) OTHER ENTITIES.—Notwithstanding clause (i), the Board shall ensure that, for each fiscal year, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands each receive 0.08 percent of the funds available for the State Homeland Security Grant Program, as described in section 1801(b)(1), for that fiscal

year for purposes of implementing its homeland security plan in accordance with the prioritization of additional needs under subsection (c)(1)(C).

''(4) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in paragraph (1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.''.

SEC. 603. ESSENTIAL CAPABILITIES, TASK FORCES, AND STANDARDS.

The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.), as amended by section 602, is amended by adding at the end the following:

''SEC. 1803. ESSENTIAL CAPABILITIES FOR HOMELAND SECURITY.

''(a) ESTABLISHMENT OF ESSENTIAL CAPABILITIES.—

''(1) IN GENERAL.—For purposes of covered grants, the Secretary shall establish clearly defined essential capabilities for State and local government preparedness for terrorism, in consultation with—

''(A) the Task Force on Essential Capabilities established under section 1804;

''(B) the Under Secretaries for Emergency Preparedness and Response, Border and Transportation Security, Information Analysis and Infrastructure Protection, and Science and Technology, and the Director of the Office of State and Local Government Coordination;

''(C) the Secretary of Health and Human Services;

''(D) other appropriate Federal agencies;

''(E) State and local first responder agencies and officials; and

''(F) consensus-based standard making organizations responsible for setting standards relevant to the first responder community.

''(2) DEADLINES.—The Secretary shall—

''(A) establish essential capabilities under paragraph (1) within 30 days after receipt of the report under section 1804(b); and

''(B) regularly update such essential capabilities as necessary, but not less than every 3 years.

''(3) PROVISION OF ESSENTIAL CAPABILITIES.—The Secretary shall ensure that a detailed description of the essential capabilities established under paragraph (1) is provided promptly to the States and to Congress. The States shall make the essential capabilities available as necessary and appropriate to local governments and operators of airports, ports, and other similar facilities within their jurisdictions.

''(b) OBJECTIVES.—The Secretary shall ensure that essential capabilities established under subsection (a)(1) meet the following objectives:

''(1) SPECIFICITY.—The determination of essential capabilities specifically shall describe the training, planning, personnel, and equipment that different types of communities in the Nation should possess, or to which they should have access, in order to meet the Department's goals for terrorism preparedness based upon—

''(A) the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States;

''(B) the types of threats, vulnerabilities, geography, size, and other factors that the Secretary has determined to be applicable to each different type of community; and

''(C) the principles of regional coordination and mutual aid among State and local governments.

''(2) FLEXIBILITY.—The establishment of essential capabilities shall be sufficiently flexible to allow State and local government officials to set priorities based on particular needs, while reaching nationally determined terrorism preparedness levels within a specified time period.

''(3) MEASURABILITY.—The establishment of essential capabilities shall be designed to enable measurement of progress toward specific terrorism preparedness goals.

''(4) COMPREHENSIVENESS.—The determination of essential capabilities for terrorism preparedness shall be made within the context of a comprehensive State emergency management system.

''(c) FACTORS TO BE CONSIDERED.—

''(1) IN GENERAL.—In establishing essential capabilities under subsection (a)(1), the Secretary specifically shall consider the variables of threat, vulnerability, and consequences with respect to the Nation's population (including transient commuting and tourist populations) and critical infrastructure. Such consideration shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States.

''(2) CRITICAL INFRASTRUCTURE SECTORS.—The Secretary specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the Nation, urban and rural:

''(A) Agriculture.
''(B) Banking and finance.
''(C) Chemical industries.
''(D) The defense industrial base.
''(E) Emergency services.
''(F) Energy.
''(G) Food.
''(H) Government.
''(I) Postal and shipping.
''(J) Public health.
''(K) Information and telecommunications networks.
''(L) Transportation.
''(M) Water.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

''(3) TYPES OF THREAT.—The Secretary specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the Nation, urban and rural:

''(A) Biological threats.
''(B) Nuclear threats.
''(C) Radiological threats.
''(D) Incendiary threats.
''(E) Chemical threats.
''(F) Explosives.
''(G) Suicide bombers.
''(H) Cyber threats.
''(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

''(4) CONSIDERATION OF ADDITIONAL FACTORS.—In establishing essential capabilities under subsection (a)(1), the Secretary shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Secretary has determined to exist.

''SEC. 1804. TASK FORCE ON ESSENTIAL CAPABILITIES.

''(a) ESTABLISHMENT.—To assist the Secretary in establishing essential capabilities under section 1803(a)(1), the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Essential Capabilities.

''(b) REPORT.—

''(1) IN GENERAL.—The Task Force shall submit to the Secretary, not later than 9 months after its establishment by the Secretary under subsection (a) and every 3 years thereafter, a report on its recommendations for essential capabilities for preparedness for terrorism.

''(2) CONTENTS.—The report shall—

''(A) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

''(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

''(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

''(D) include such additional matters as the Secretary may specify in order to further the terrorism preparedness capabilities of first responders; and

''(E) include such revisions to the contents of past reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

''(3) CONSISTENCY WITH FEDERAL WORKING GROUP.—The Task Force shall ensure that its recommendations for essential capabilities are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

''(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

''(5) PRIOR MEASURES.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent or prepare for terrorist attacks.

''(c) MEMBERSHIP.—

''(1) IN GENERAL.—The Task Force shall consist of 35 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

''(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

''(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

''(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

''(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing 1 of the 2 major political parties, an equal number of elected officials shall be selected from each such party.

''(2) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate the selection with the Secretary of Health and Human Services.

''(3) EX OFFICIO MEMBERS.—The Secretary and the Secretary of Health and Human Services shall each designate 1 or more officers of their respective Departments to serve as ex officio members of the Task Force. One of the ex officio members from the Department of Homeland Security shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 App. U.S.C.).

''(d) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

''SEC. 1805. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.

''(a) EQUIPMENT STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office of State and Local Government Coordination, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1802(e)(7). Such standards—

''(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

''(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

''(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

''(D) shall cover all appropriate uses of the equipment.

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

''(A) Thermal imaging equipment.

''(B) Radiation detection and analysis equipment.

''(C) Biological detection and analysis equipment.

''(D) Chemical detection and analysis equipment.

''(E) Decontamination and sterilization equipment.

''(F) Personal protective equipment, including garments, boots, gloves, and hoods, and other protective clothing.

''(G) Respiratory protection equipment.

''(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

''(I) Explosive mitigation devices and explosive detection and analysis equipment.

''(J) Containment vessels.

''(K) Contaminant-resistant vehicles.

''(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

''(b) TRAINING STANDARDS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office of State and Local Government Coordination, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

''(A) enable first responders to prevent, prepare for, respond to, and mitigate terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

''(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

''(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

''(A) Regional planning.

''(B) Joint exercises.

''(C) Intelligence collection, analysis, and sharing.

''(D) Emergency notification of affected populations.

''(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

''(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

''(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

''(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

''(1) the National Institute of Standards and Technology;

''(2) the National Fire Protection Association;

''(3) the National Association of County and City Health Officials;

''(4) the Association of State and Territorial Health Officials;

''(5) the American National Standards Institute;

''(6) the National Institute of Justice;

''(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

''(8) the National Public Health Performance Standards Program;

''(9) the National Institute for Occupational Safety and Health;

''(10) ASTM International;

''(11) the International Safety Equipment Association;

''(12) the Emergency Management Accreditation Program;

''(13) the National Domestic Preparedness Consortium; and

''(14) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

''(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.''.

SEC. 604. EFFECTIVE ADMINISTRATION OF HOMELAND SECURITY GRANTS.

(a) USE OF GRANT FUNDS AND ACCOUNTABILITY.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.), as amended by sections 602 and 603, is amended by adding at the end the following:

''SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

''(a) IN GENERAL.—A covered grant may be used for—

''(1) purchasing, upgrading, or maintaining equipment, including computer software, to enhance terrorism preparedness and response;

''(2) exercises to strengthen terrorism preparedness and response;

''(3) training for prevention (including detection) of, preparedness for, or response to attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

''(4) developing or updating response plans;

''(5) establishing or enhancing mechanisms for sharing terrorism threat information;

''(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, lifecycle systems design, product and technology evaluation, and prototype development for terrorism preparedness and response purposes;

''(7) additional personnel costs resulting from—

''(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

''(B) travel to and participation in exercises and training in the use of equipment and on prevention activities;

''(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities; and

''(D) participation in information, investigative, and intelligence-sharing activities specifically related to terrorism prevention;

''(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

''(9) target hardening to reduce the vulnerability of high-value targets, as determined by the Secretary;

''(10) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

''(A) $1,000,000 per project; or

''(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

''(11) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

''(12) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

''(13) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prepare for and respond to an act of terrorism;

''(14) paying of administrative expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant; and

''(15) other appropriate activities as determined by the Secretary.

''(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

''(1) to supplant State or local funds that have been obligated for a homeland security or other first responder-related project;

''(2) to construct buildings or other physical facilities, except for—

''(A) activities under section 611 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196); and

''(B) upgrading facilities to protect against, test for, and treat the effects of biological agents, which shall be included in the homeland security plan approved by the Secretary under section 1802(c);

''(3) to acquire land; or

''(4) for any State or local government cost-sharing contribution.

''(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary under section 1803.

''(d) REIMBURSEMENT OF COSTS.—In addition to the activities described in subsection (a), a covered grant may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in training covered by this section. Any such reimbursement shall not be considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

''(e) ASSISTANCE REQUIREMENT.—The Secretary may not request that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

''(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

''(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

''(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

''(2) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

''(3) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit a quarterly report to the Secretary not later than 30 days after the end of each fiscal quarter. Each such report shall include, for each recipient of a covered grant or a pass-through under paragraph (1)—

''(A) the amount obligated to that recipient in that quarter;

''(B) the amount expended by that recipient in that quarter; and

''(C) a summary description of the items purchased by such recipient with such amount.

''(4) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each fiscal year. Each recipient of a covered grant that is a region shall simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe shall simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report shall include the following:

''(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

''(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

''(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

''(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

''(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

''(5) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (4) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

''(6) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (4) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office of State and Local Government Coordination.

''(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

''(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (g)(1) within 45 days after receiving funds under the grant, the Secretary may—

''(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

''(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

''(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

''(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

''(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

''(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

''(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1802(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

''(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

''(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

''(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

''(ii) the State has failed to pass through funds or resources in accordance with subsection (g)(1); and

''(iii) the local government complies with subparagraph (B).

''(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

''(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

''(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

''(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (g)(1); and

''(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

''(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

''(i) shall not affect any payment to another local government under this paragraph; and

''(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

''(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

''(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to Congress by December 31 of each year—

''(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State, region, and directly eligible tribe in the preceding fiscal year;

''(2) containing information on the use of such grant funds by grantees; and

''(3) describing—

''(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established under section 1803(a) as a result of the expenditure of covered grant funds during the preceding fiscal year; and

''(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established under section 1803(a).''.

(b) SENSE OF CONGRESS REGARDING INTEROPERABLE COMMUNICATIONS.—

(1) FINDING.—Congress finds that—

(A) many emergency response providers (as defined under section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101), as amended by this title) working in the same jurisdiction or in different jurisdictions cannot effectively and efficiently communicate with one another; and

(B) their inability to do so threatens the public's safety and may result in unnecessary loss of lives and property.

(2) SENSE OF CONGRESS.—It is the sense of Congress that interoperable emergency communications systems and radios should continue to be deployed as soon as practicable for use by the emergency response provider community, and that upgraded and new digital communications systems and new digital radios must meet prevailing national voluntary consensus standards for interoperability.

(c) SENSE OF CONGRESS REGARDING CITIZEN CORPS COUNCILS.—

(1) FINDING.—Congress finds that Citizen Corps councils help to enhance local citizen participation in terrorism preparedness by coordinating multiple Citizen Corps programs, developing community action plans, assessing possible threats, and identifying local resources.

(2) SENSE OF CONGRESS.—It is the sense of Congress that individual Citizen Corps councils should seek to enhance the preparedness and response capabilities of all organizations participating in the councils, including by providing funding to as many of their participating organizations as practicable to promote local terrorism preparedness programs.

(d) REQUIRED COORDINATION.—The Secretary of Homeland Security shall ensure that there is effective and ongoing coordination of Federal efforts to prevent, prepare for, and respond to acts of terrorism and other major disasters and emergencies among the divisions of the Department of Homeland Security, including the Directorate of Emergency Preparedness and Response and the Office for State and Local Government Coordination and Preparedness.

(e) COORDINATION OF INDUSTRY EFFORTS.—Section 102(f) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 112(f)) is amended by striking ''and'' after the semicolon at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ''; and'', and by adding at the end the following:

''(8) coordinating industry efforts, with respect to functions of the Department of Homeland Security, to identify private sector resources and capabilities that could be effective in supplementing Federal, State, and local government agency efforts to prevent or respond to a terrorist attack.''.

(f) STUDY REGARDING NATIONWIDE EMERGENCY NOTIFICATION SYSTEM.—

(1) STUDY.—The Secretary of Homeland Security, in consultation with the heads of other appropriate Federal agencies and representatives of providers and participants in the telecommunications industry, shall conduct a study to determine whether it is cost effective, efficient, and feasible to establish and implement an emergency telephonic alert notification system that will—

(A) alert persons in the United States of imminent or current hazardous events caused by acts of terrorism; and

(B) provide information to individuals regarding appropriate measures that may be undertaken to alleviate or minimize threats to their safety and welfare posed by such events.

(2) TECHNOLOGIES TO CONSIDER.—In conducting the study under paragraph (1), the Secretary shall consider the use of the telephone, wireless communications, and other existing communications networks to provide such notification.

(3) REPORT.—Not later than 9 months after the date of enactment of this title, the Secretary shall submit to Congress a report regarding the conclusions of the study conducted under paragraph (1).

(g) STUDY OF EXPANSION OF AREA OF JURISDICTION OF OFFICE OF NATIONAL CAPITAL REGION COORDINATION.—

(1) STUDY.—The Secretary of Homeland Security, acting through the Director of the Office of National Capital Region Coordination, shall conduct a study of the feasibility and desirability of modifying the definition of ''National Capital Region'' applicable under section 882 of the Homeland Security Act of 2002 to expand the geographic area under the jurisdiction of the Office of National Capital Region Coordination.

(2) FACTORS.—In conducting the study under paragraph (1), the Secretary shall analyze whether expanding the geographic area under the jurisdiction of the Office of National Region Coordination will—

(A) promote coordination among State and local governments within the Region, including regional governing bodies, and coordination of the efforts of first responders; and

(B) enhance the ability of such State and local governments and the Federal Government to prevent and respond to a terrorist attack within the Region.

(3) REPORT.—Not later than 6 months after the date of the enactment of this title, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report such recommendations (including recommendations for legislation to amend section 882 of the Homeland Security Act of 2002) as the Secretary considers appropriate.

SEC. 605. IMPLEMENTATION; DEFINITIONS; TABLE OF CONTENTS.

(a) TECHNICAL AND CONFORMING AMENDMENT.—Section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714) is amended—

(1) by striking subsection (c)(3);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following:

''(c) ADMINISTRATION.—Grants under this section shall be administered in accordance with title 18 of the Homeland Security Act of 2002.''.

(b) TEMPORARY LIMITATIONS ON APPLICATION.—

(1) 1-YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as added by this title, shall not apply during the 1-year period beginning on the date of enactment of this title—

(A) subsections (b), (c), and (e)(4) (A) and (B) of section 1802; and

(B) in section 1802(f)(3)(A)(i), the phrase ''by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis,''.

(2) 2-YEAR DELAY IN APPLICATION.—The following provisions of title XVIII of the Homeland Security Act of 2002, as added by this title, shall not apply during the 2-year period beginning on the date of enactment of this title—

(A) subparagraphs (D) and (E) of section 1806(g)(4); and

(B) section 1806(i)(3).

(c) DEFINITIONS.—

(1) TITLE XVIII.—The Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 361 et seq.), as amended by sections 602, 603, and 604, is amended by adding at the end the following:

''SEC. 1807. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the Homeland Security Grants Board established under section 1802(f).

''(2) CONSEQUENCE.—The term 'consequence' means the assessment of the effect of a completed attack.

''(3) COVERED GRANT.—The term 'covered grant' means any grant to which this title applies under section 1801(b).

''(4) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

''(A) meets the criteria for inclusion in the qualified applicant pool for self-governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

''(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

''(C)(i) is located on, or within 5 miles of, an international border or waterway;

''(ii) is located within 5 miles of a facility designated as high-risk critical infrastructure by the Secretary;

''(iii) is located within or contiguous to 1 of the 50 largest metropolitan statistical areas in the United States; or

''(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

''(5) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second-highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

''(6) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

''(7) ESSENTIAL CAPABILITIES.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, and respond to acts of terrorism consistent with established practices.

''(8) FIRST RESPONDER.—The term 'first responder' shall have the same meaning as the term 'emergency response provider' under section 2.

''(9) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

''(10) REGION.—The term 'region' means any geographic area—

''(A) certified by the Secretary under section 1802(a)(3);

''(B) consisting of all or parts of 2 or more counties, municipalities, or other local governments and including a city with a core population exceeding 500,000 according to the most recent estimate available from the United States Census; and

''(C) that, for purposes of an application for a covered grant—

''(i) is represented by 1 or more local governments or governmental agencies within such geographic area; and

''(ii) is established by law or by agreement of 2 or more such local governments or governmental agencies, such as through a mutual aid agreement.

''(11) RISK-BASED FUNDING.—The term 'risk-based funding' means the allocation of funds based on an assessment of threat, vulnerability, and consequence.

''(12) TASK FORCE.—The term 'Task Force' means the Task Force on Essential Capabilities established under section 1804.

''(13) THREAT.—The term 'threat' means the assessment of the plans, intentions, and capability of an adversary to implement an identified attack scenario.

''(14) VULNERABILITY.—The term 'vulnerability' means the degree to which a facility is available or accessible to an attack, including the degree to which the facility is inherently secure or has been hardened against such an attack.''.

(2) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101(6)) is amended by striking ''includes'' and all that follows and inserting ''includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.''.

(d) TABLE OF CONTENTS.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107–296; 6 U.S.C. 101 note) is amended in the table of contents by adding at the end the following:

''TITLE XVIII—RISK-BASED FUNDING FOR HOMELAND SECURITY

''Sec. 1801. Risk-based funding for homeland security.

''Sec. 1802. Covered grant eligibility and criteria.

''Sec. 1803. Essential capabilities for homeland security.

''Sec. 1804. Task Force on Essential Capabilities.

''Sec. 1805. National standards for first responder equipment and training.

''Sec. 1806. Use of funds and accountability requirements.

''Sec. 1807. Definitions.''.

PRIVILEGE OF THE FLOOR

Mr. BYRD. I ask unanimous consent Sean MacKenzie, a Coast Guard detailee to the Subcommittee on Homeland Security, be given floor privileges during consideration of H.R. 2360.

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

RELATIVE TO THE DEATH OF FORMER SENATOR GAYLORD A. NELSON

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 194, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

A resolution (S. Res. 194) relative to the death of Gaylord A. Nelson, a former United States Senator from the State of Wisconsin.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FEINGOLD. Mr. President, I rise to speak on a resolution submitted by Senator FRIST and Senator REID to commemorate the life and work of Senator Gaylord Nelson. It is with mixed emotions that I make this statement honoring Senator Nelson.

I am proud—proud to have known Gaylord Nelson, proud to be from the same State as him, and proud to occupy his Senate seat. I am also deeply saddened—saddened by the loss to his family, especially to his wife of 58 years, Carrie Lee; saddened by the loss to our Nation; and saddened that a personal hero and dear friend of mine is gone. I am also thankful—thankful for Senator Nelson's long life, thankful for the example he set of how to make a difference in this world, and thankful to his family for sharing this good and decent man with the Nation. We mourn his death, but we also celebrate his remarkable legacy.

Gaylord Anton Nelson was born on June 4, 1916, in Clear Lake, WI. Gaylord's parents were always interested in politics, and in true Wisconsin tradition, they were La Follette Progressive Republicans at the State level and Democrats at the national level. Their Wisconsin-style progressive politics rubbed off on young Gaylord.

When he was 10, Gaylord traveled with his dad to hear a campaign speech by Senator Bob La Follette, Jr., who succeeded his father in the Senate in 1925. Gaylord recalls in his biography:

On the way back home to Clear Lake, my dad asked if I wanted to be a senator. I said I'd love to be a senator, but I'm afraid that Bob La Follette will solve all of our problems before I get a chance to serve.

Thirty-three years later, Gaylord was nominated to be the Democrat candidate for Governor of Wisconsin. At the 1958 Democrat convention in La-Crosse, Gaylord's father had a heart attack. When Gaylord went to see him in the hospital, the elder Nelson smiled and then said to his son, ''Do you think Bob La Follette left enough problems behind for you to solve?'' Gaylord's father died 10 days later.

Unfortunately, Gaylord's father did not get to see his son's rise to the national political level. If he had, he would have seen Gaylord attack those ''remaining problems left to solve'' with La Follette-like dogged determination and commitment to Progressive politics. From consumer protection to employee rights, Senator Nelson fought doggedly to address problems affecting countless Americans.

Gaylord Nelson was also willing to take a tough stand. When President Johnson requested money to escalate the war in Vietnam, for example, Nelson was one of three senators to vote against the proposal. In a speech on this floor, he said:

At a time in history when the Senate should be vindicating its historic reputation as the greatest deliberative body in the world, we are stumbling over each other to see who can say 'yea' the quickest and the loudest. I regret it, and I think some day we shall all regret it. . . . Reluctantly, I express my opposition . . . here by voting 'nay.' The support in the Congress for this measure is clearly overwhelming. Obviously, you need my vote less than I need my conscience.

Whether it was issues of war and foreign affairs, worker safety and health, or access to affordable healthcare, Gaylord Nelson was guided by his conscience, and by the wellbeing of Wisconsinites. Out of his impressive record, however, one issue stands out as central to his legacy—Gaylord Nelson's passion and commitment to protecting our environment.

Not many people who have served in this distinguished body can lay claim to a day, but Gaylord Nelson can. On April 22, 1970, Gaylord Nelson created a day to celebrate the glory of the Earth. Where did Nelson get his lifelong interest and dedication to the environment? ''By osmosis,'' Nelson would say, ''while growing up in Clear Lake, WI.''

It's true that Wisconsin has a tradition of great conservationists—Aldo Leopold, author of A Sand County Almanac; Sigurd Olson, one of the founders of the Wilderness Society; and John Muir, founder of the Sierra Club. The people of Wisconsin, living in such a beautiful and ecologically diverse State, feel a special connection to our natural resources. We share a long tradition of our State government achieving excellence in its conservation policies. Many Wisconsinites would agree with Senator Nelson that our conservation ethic comes ''by osmosis'' from the intense natural beauty of our State. Every year I hold a town hall meeting in each one of Wisconsin's 72 counties, and protecting the environment is always one of the top issues raised at these forums.

Senator Nelson's vision and determination helped crystallize this Wisconsin conservation ethic into an international phenomenon. Thanks to Gaylord Nelson, Wisconsin can lay claim to the genesis of Earth Day, a day of national and international reflection on the importance of our natural resources and a clean environment. Thanks to him, for the past 35

years, people around the world have taken time out of our lives to think about, learn about and dedicate themselves to conservation. An astonishing 20 million Americans—10 percent of the U.S. population at the time—participated in the first observance of Earth Day on April 22, 1970. American Heritage magazine described the event as ''one of the most remarkable happenings in the history of democracy.'' The day was marked by marches, rallies, teach-ins, and concerts. Fifth Avenue was closed for two hours and over 100,000 people celebrated Earth Day on Union Square in New York City.

Earth Day has become an important part of who we are. From Milwaukee, WI to Mumbai, India, millions of people across the world have taken Senator Nelson's legacy to heart. People have dedicated thousands of hours to volunteer to conserve the environment—whether it's in their backyard, local river, or park.

During his 18 years of service in the Senate, Gaylord Nelson brought about significant change for the ''greener'' in both our Nation's laws and the institution of the Senate itself. He was the coauthor of the Environmental Education Act, which he sponsored with the senior Senator from Massachusetts, Mr. KENNEDY, and the Wild and Scenic Rivers Act, and he sponsored the amendment to give the St. Croix and the Namekagon Rivers scenic protection.

In the wake of Rachel Carson's book Silent Spring, Gaylord Nelson, along with Senator Philip Hart of Michigan, directed national attention to the documented persistent bioaccumulative effects of organochlorine pesticides used in the Great Lakes by authoring the ban on DDT in 1972. He was the primary sponsor of the Apostle Islands National Lakeshore Act, protecting one of Northern Wisconsin's most beautiful areas.

It is to Gaylord's lasting credit that he was able to fight tenaciously for environmental and other causes without alienating or antagonizing a soul. His decency, modesty and charm won over even those who didn't share his goals. By all accounts, he was one of the most beloved members this body has seen and, at a time when partisan tensions are running high, his willingness to reach out to people across the political spectrum should remind all of us that political disagreement does not have to be personal.

As we honor Senator Nelson and his legacy, I hope Congress will re-dedicate itself to achieving the bipartisan consensus on protecting the environment that existed for nearly two decades.

This April, Senator Nelson issued a statement to mark the 35th anniversary of Earth Day and calling Earth Day 2005 ''a wake up call.'' Senator Nelson said:

> On environmental issues, our intelligence is reliable. Our scientists have the facts, if we will only listen. It is a ''slam dunk'' that we cannot continue on our present course. But without Presidential and Congressional leadership, even an enlightened public cannot cope with the greatest challenge of our time.

As always, Gaylord was right. I know that Wisconsinites value a clean environment, not just for purely aesthetic or philosophical purposes, but because a clean environment ensures that Wisconsin and the United States as a whole remains a good place to raise a family, to start a business, or to buy a home. People across this country share those values, and we in this body owe it to them and to Gaylord's memory to protect our natural resources.

Gaylord Nelson changed the consciousness of a nation. He was a distinguished Governor and Senator, a recipient of the Presidential Medal of Freedom, and a personal hero of mine. And he was the embodiment of the principle that one person can change the world. But Senator Nelson's biographer may have said it best:

> He was always the boy from Clear Lake, Wisconsin, off on adventure.

Clear Lake is where he will return, but future generations will carry on his adventure, and his example and principles will show them the way.

Mr. President, I yield the floor.

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

Mrs. CLINTON. Mr. President, I thank my friend and colleague from Wisconsin for that beautiful tribute to Gaylord Nelson. He was a hero to many of us, and I actually remember the first Earth Day, which certainly does date me. We need more and more people who would follow his example and heed his words about what our obligation to the Earth is. So I thank my friend.

Mr. KOHL. Mr. President, I rise today to honor the life and achievements of Senator Gaylord Nelson. The people of Wisconsin owe him a debt a gratitude for his years of service to the State. And the Nation owes him honor as the founder of Earth Day and the driving force behind the way the American people and the world view the environment and environmental conservation.

Gaylord Nelson was born the third of four children on June 4, 1916 in Clear Lake, WI, a community of about 700 people in the northwest corner of the State. Nelson's parents were deeply involved in Clear Lake civic activities and his first lessons in political discourse were around his boyhood kitchen table. Those early days were a foundation on which Senator Nelson built a lifetime of public service.

Senator Nelson first won elected office in 1948, after 4 years in the military during World War II. He served as a Wisconsin State Senator, Governor, and then as a U.S. Senator for 18 years. As Governor, he fought to preserve Wisconsin's forests and wetlands long before those causes became popular nationally. As a Senator, he built on his environmentalist legacy working to protect the Appalachian Trail corridor and to create the national trail system. He fought for consumer protection and was one of only three Senators to vote against the $700 million appropriation that signaled the start of the ground war in Vietnam.

However, Gaylord Nelson's greatest gift was his vision of a national day to protect and celebrate our environment. What started out as an idea in the early 1960's blossomed into a national day of observance with an estimated 20 million demonstrators participating in the first Earth Day in 1970. Earth Day is still celebrated. This year 500 million people in 167 countries took part.

Earth Day publicized in an unprecedented manner the dangers of poisons in our water and air, pesticides in our drinking water, and chemicals in our soil. Armed with information and a spirit of activism, Americans turned their Earth Day celebrations into a movement pressuring Congress and the President to pass the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and Superfund legislation. These are the foundation of our environmental law today, and they would not have been possible without the work and vision of Senator Gaylord Nelson.

Though Gaylord Nelson left the Senate in 1981, he never stopped working for the Earth and environment, going on to lead the Wilderness Society's important work on environmental conservation. In 1990, he received the Ansel Adams Conservation Award, given to a Federal official who has shown tireless commitment to the cause of conservation and the fostering of an American land ethic. In 1992, the United Nations Environment Programme presented Gaylord Nelson with the Only One World Award. And in 1995, Senator Nelson received the Nation's highest civilian award: the Presidential Medal of Freedom. On that day, President Clinton proclaimed: ''As the father of Earth Day, he is the grandfather of all that grew out of that event: the Environmental Protection Act, the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act.''

Senator Gaylord Nelson worked not just for our State, or even just our country. His gift was to the Earth and his legacy, a cleaner, healthier world. And though Gaylord is gone, he lives on—for us and into the future—in every clear stream, breath of fresh air and virgin trail. We honor him by thinking as he did, globally and responsibly. We honor him by—on every day, not just Earth day—taking seriously our responsibility to the air, land and water that sustain us.

Mr. MCCONNELL. 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. 194) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 194

Whereas Gaylord A. Nelson served in the United States Army from 1942–1946;

Whereas Gaylord A. Nelson served as Governor of the State of Wisconsin from 1959–1963;

Whereas Gaylord A. Nelson served the people of Wisconsin with distinction for 18 years in the United States Senate;

Whereas Gaylord A. Nelson served the Senate as Chairman of the Select Committee on Small Business from the Ninety-Third through the Ninety-Sixth Congresses and as Chairman of the Special Committee on Official Conduct in the Ninety-Fifth Congress;

Whereas Gaylord A. Nelson received the Presidential Medal of Freedom in 1995;

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of the Honorable Gaylord A. Nelson, former member of the United States Senate.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of the Honorable Gaylord A. Nelson.

MEASURES READ THE FIRST TIME—S. 1374 AND S. 1375

Mr. MCCONNELL. Mr. President, I understand there are two bills at the desk, and I ask for their first reading en bloc.

The PRESIDING OFFICER. The clerk will read the bills for the first time.

The assistant legislative clerk read as follows:

A bill (S. 1374) to amend the Homeland Security Act of 2002 to provide for a border preparedness pilot program on Indian land.

A bill (S. 1375) to amend the Indian Arts and Crafts Act of 1990 to modify provisions relating to criminal proceedings and civil actions, and for other purposes.

Mr. MCCONNELL. Mr. President, I ask for a second reading, and in order to place the bills on the calendar under the provisions of rule XIV, I object to my own requests en bloc.

The PRESIDING OFFICER. The bills will be read for the second time on the next legislative day.

MEASURE PLACED ON CALENDAR—H.R. 748

Mr. MCCONNELL. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 748) to amend Title 18 United States Code to prevent the transportation of minors in circumvention of certain laws related to abortion, and for other purposes.

Mr. MCCONNELL. Mr. President, in order to place the bill on the calendar, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

REQUEST FOR RETURN OF PAPERS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate request that the House return the papers with respect to H.R. 2985, the Legislative Branch appropriations bill.

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

ORDERS FOR TUESDAY, JULY 12, 2005

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m., Tuesday, July 12. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of the Homeland Security appropriations bill. I further ask unanimous consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

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

PROGRAM

Mr. MCCONNELL. Mr. President, tomorrow, the Senate will resume consideration of the Homeland Security appropriations bill. Several amendments are currently pending, including the Collins grant formula amendment, as well as a second-degree amendment on the same subject matter offered by Senator FEINSTEIN. It is my hope that we will be able to lock in a time agreement with respect to those amendments tomorrow morning. In addition, there is an amendment relating to veterans health funding that we hope to dispose of tomorrow.

Chairman GREGG and Senator BYRD will be here tomorrow to work through additional amendments, and Senators who have time to file the amendments and wish to offer them should contact the bill managers, obviously, as soon as possible. Senators should expect rollcall votes throughout the day tomorrow as the Senate continues to make progress on this important piece of legislation.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. MCCONNELL. 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 as a mark of further respect to the memory of former Senator Gaylord Nelson.

There being no objection, the Senate, at 7:11 p.m., adjourned until Tuesday, July 12, 2005, at 9:45 a.m.