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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.

O God, who causes our hearts to overflow with beautiful thoughts, You are so glorious, so majestic. We think of the gifts of life, of love, of meaningful work. We think of the blessings of the gift of friendship, of family, of fertile fields. We think of the power of Your throne which endures forever and ever. Grant that these beautiful thoughts will be transformed into loving service to those who need it most. Inspire our Senators to labor for a harvest that will transform lives and provide a shield for freedom. Teach them to disagree without being disagreeable and to safeguard friendships regardless of the issues. May they seek to understand before being understood. Make them quick to listen, slow to speak and slow to anger. Give them the wisdom to love what is right and hate what is wrong. May their work so honor Your name that nations will praise You forever. We pray this in Your blessed Name.

Amen.

PLEDGE OF ALLEGIANCE

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

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

RECOGNITION OF ACTING MAJORITY LEADER

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

SCHEDULE

Mr. MCCONNELL. Mr. President, today we open with a 1-hour period for morning business. At 2 today, we will resume consideration of the emergency supplemental appropriations bill. As we announced at the close of last week, Members can expect one or two votes this evening in relation to the appropriations bill. Chairman COCHRAN will be here when we resume the bill, and we will be consulting with the two managers and the Democratic leader as to exactly what votes we can expect today at approximately 5:30.

On Friday, cloture was filed on the two pending amendments relating to AgJOBS. In addition to these two cloture votes, we have cloture votes scheduled on the Mikulski amendment on visas, as well as the underlying bill. To remind all of our colleagues, the two AgJOBS cloture votes are scheduled for 11:45 a.m. tomorrow. The cloture vote on the Mikulski amendment and the cloture vote on the bill will occur later tomorrow afternoon. I hope we can invoke cloture on the bill tomorrow. That will be the only way to ensure that we finish our work this week on this extremely important funding legislation. Therefore, Senators can expect votes each day this week as we work our way through the issues related to the supplemental appropriations bill.

I yield the floor.

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 the hour of 2 p.m., with Senators permitted to speak therein for up to 10 minutes each.

The Senator from Georgia.

BLUE CARD ALTERNATIVE TO H–2A GUEST WORKER PROGRAM

Mr. CHAMBLISS. Mr. President, I rise to discuss an amendment that I, along with my friend from Arizona, Senator JON KYL, have introduced. This amendment represents a practical alternative to S. 359, which has been introduced by Senator CRAIG, commonly known as the AgJOBS bill. My hometown of Moultrie, GA, is located in Colquitt County. It is one of the most diversified agricultural counties in the country and often referred to as the most diversified agricultural county east of the Mississippi River. During my 26 years of practicing law, before I came to Congress I represented farmers who grow almost every kind of crop there is. These farmers, as do most farmers in America, depend very heavily upon migrant labor for their means of planting, harvesting, and getting their crops to market.

Up the road from my hometown is the Georgia peach growing area, which also produces most of the pecans that are grown in the country today. So, firsthand, I recognize the need for a stable and legal agricultural workforce.

From my perspective as a former member of the House Permanent Select Committee on Intelligence and my present position as chairman of the Senate Agricultural Committee, I understand that our country's need for a secure and reliable domestic food supply is an issue of national security. This legislation addresses those needs without providing amnesty to our current illegal agricultural workforce. Instead, we take a two-pronged approach. First, this legislation modernizes and streamlines the current H–2A program. Secondly, it creates a temporary agricultural guest worker program called the blue card program.

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

Let me give a little background on the present H–2A program and why so few agricultural employers utilize it.

The H–2A program is a program for non-immigrant, work-related, temporary visas authorized by the Immigration and Naturalization Act. It is regulated and administered by the United States Department of Labor. Although its purpose is to allow producers to have access to an adequate legal seasonal workforce when domestic workers are unavailable, participation in the H–2A program is time consuming, bureaucratic, and inefficient.

A producer must complete a complicated application process which involves sequential approval by a State agency and three Federal agencies. As presently designed, administered, and enforced, H–2A employers must complete a great deal of paperwork during the application process. They must then coordinate and track their workers through a Bureau of Customs and Immigration Services and State Department visa approval system. Once the workers are present on the farm, these employers must also comply with all aspects of the Immigration and Naturalization Act, the Migrant Seasonal Protection Worker Act, the Fair Labor Standards Act, and various OSHA regulations regarding housing and field sanitation.

Redtape aside, another serious issue with the current H–2A program is that it requires employers to pay the Adverse Effect Wage Rate, which is determined by an archaic survey conducted since the 1930s. This survey was never designed to capture prevailing wages within a specific geographical area nor does it specify the type of work that is being done for that wage. In my home State of Georgia, the present wage an employer must pay for an unskilled farm worker is $8.30 per hour. This wage is in addition to free housing and reimbursement for all transportation costs. All of these expenses make it very difficult for these H–2A employers to compete with producers who do not or cannot use the program and who then pay workers they are able to find between $5.15 and $6.15 per hour.

We have millions of illegal workers on farms in this country. We have a program that will allow growers to use legal workers. The fact so few agricultural employers take advantage of H–2A is simple. It is too complicated, too costly, and much too litigious.

The legislation that Senator KYL and I have introduced simplifies the H–2A program by streamlining the application process to involve fewer Government entities in the final approval. Under this bill, employers who wish to use H–2A workers will go through an attestation process, rather than a lengthy bureaucratic labor certification process. Employers will be allowed to attest to the Department of Homeland Security that they have conducted the required recruitment and were unable to find an adequate number of domestic workers to fill their labor needs. The Department of Labor will maintain its roll as an auditor to punish those employers who willfully violate the conditions that must be met in the attestation process to obtain H–2A workers. We have increased the penalties to ensure those who continue to employ illegal workers rather than utilize this updated program will pay the costs.

This legislation also addresses the Adverse Effect Wage rate, which many contend has discouraged employers from using the H–2A program. Instead, we move to a wage rate that is more market-oriented and a prevailing wage for each region of the country.

Another important aspect of this legislation is it clearly states that the Legal Services Corporation cannot represent or provide services to a person or entity representing any alien, unless that alien is physically present in the United States. This clarification is needed because of the longstanding and well-documented abuses by the Legal Services Corporation in filing frivolous lawsuits against producers who employ H–2A workers.

By streamlining and modernizing the H–2A program, we can make it easier and more attractive to U.S. agricultural employers and minimize the attraction of using illegal labor.

The second part of our legislation targets the illegal population in this country with the creation of a blue card program. The blue card program is an innovative, new temporary guest worker program. The idea of it is to allow employers who cannot find an adequate domestic workforce to petition on behalf of an immigrant who is currently illegally here to receive a blue card or a temporary status in this country. The petitioning process will require the alien to submit his or her biographical information along with two biometric identifiers to the Department of Homeland Security. This way, we can be sure we are not bestowing the blue card status on a potential terrorist or an alien with a criminal past.

The blue card itself will be a machine-readable, tamper-resistant document that will be capable of confirming, for any immigration official who needs to know, the person holding the blue card is who the card claims he or she is, and the blue card worker is authorized to work in agricultural employment in the United States and the authorization has not expired.

Because the blue card workers will maintain these secure identification documents, they can freely travel between the United States and their home countries. This will allow the blue card workers to maintain ties to their lives and families at home.

It is important to note that by setting the Blue Card Program up on an employer-petition basis, the program has a natural cap built in—one that responds to the U.S. market and our agricultural labor needs. Employers will only petition for as many workers as needed to fill their labor needs. This is unlike the AgJOBS bill which allows illegal aliens to self-petition.

Once an alien receives a blue card, he or she is eligible to work in the United States for up to three years. The blue card may be renewed up to two times, each at an employer's petitioning. At the end of the second renewal, the blue card worker must return to his or her home country, or country of last residence. This is important. The blue card provides no path to U.S. citizenship, which is contrary to what the AgJOBS bill does. Any blue card worker who wishes to become a U.S. citizen is certainly allowed to do so. All that worker has to do is revoke his or her blue card, return to his or her home country or country of last residence for at least 1 year and apply through the normal process just like everyone else.

An approved blue card worker will receive all the protections U.S. workers will receive. While blue cards are available only to those aliens who work in the agricultural field, this legislation expands a traditional definition of agriculture in recognition of the interdependence on various occupations within the field of agriculture. By including packagers, processors, and landscapers, we not only encourage a larger percentage of our illegal population to come forward, submit to Homeland Security background checks, and get legal work authorization, we also provide some relief to those occupations that have traditionally relied on H–2B visas for foreign workers. As we all know, H–2B visas are in short supply and high demand.

This legislation is important, and I urge the support of my colleagues.

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

Mr. KYL. Mr. President, I first wish to express appreciation to the Senator from Georgia for explaining very well both the need for and the description of the legislation on which we will be voting tomorrow, which is our version of the legislation that will help employers in our agricultural sector by including immigration reform which will make it easier for them to obtain workers from both the illegal immigrants who are in the country today as well as those legal immigrants who would be applying under our legislation.

Let me go back to kind of a 30,000-foot elevation view here and describe the reasons we put this legislation together and are offering it at this time. As we have said before, the supplemental appropriations bill, which will be debated again tomorrow as well as later today and which will help pay for our war efforts in Iraq and Afghanistan, is not the appropriate place to be debating immigration. Unfortunately, some of our colleagues saw fit to bring amendments to the Senate floor which related to that subject. One of those amendments is this amendment that deals with agricultural labor. It was at that point that Senator CHAMBLISS and

I had no alternative but to present the alternative view of how to serve those agricultural needs.

The basic difference between the bill Senator CHAMBLISS just described and the other bill, the bill that is primarily offered by Senators KENNEDY and CRAIG, is the difference between a bill that provides amnesty, in the case of their legislation, for illegal immigrants here, and our bill, which provides the workforce within the legal construct of the law but does not grant amnesty to the illegal immigrants who are here. There are a lot of other differences, but that is the prime difference.

Both of us recognize that there is a significant need for a workforce in this country, willing and able to work in agriculture and related occupations, and that cannot be satisfied solely with people who are American citizens today.

The difference is in the way we treat those people who are here illegally today. What the Craig and Kennedy legislation does is to grant those people, very early on, a legal status which permits them to become legal permanent residents. ''Legal permanent residents'' is a term of art under our immigration law. Some people refer to it as a green card. As little as 100 hours' work for 3½ months entitles someone under their legislation to get a green card. A green card is like gold because it enables you to live for the rest of your life in the United States of America and work here.

But it also means something else. If you have a green card, you can also apply to become a citizen of the United States of America. It is a wonderful thing for people from other countries to get to be citizens of the United States of America. We are very much in support of immigration to this country. As my grandparents came here and as almost all the rest of us have relatives who came to this country from another country, we all support legal immigration. But we do not believe that great opportunity to become a citizen of the United States should be granted to someone on the basis of their illegality; because they came here illegally, because they used counterfeit documents, because they got a job illegally—that on the basis of those factors they should get an advantage over those who are abiding by the law and who want to become U.S. citizens. It is that with which we disagree.

What we say is if a person who is in the country illegally today wants to work in U.S. agriculture or related industries, and the employer needs that person—and there are certainly a lot of them in that category—the employer petitions and that individual can get a different kind of status, a blue card, as Senator CHAMBLISS said. That blue card status enables them to work here, to live here, to travel back and forth to their country of origin. They can go back and forth every weekend, if they desire. There are no restrictions there. They are in the Social Security system. They are protected by our laws. They have to be paid a specific kind of wage, and they have all of the other kinds of protections one would think of in this context, but their status is different from that of a legal permanent resident, a green card holder.

Not only are they not entitled to live here the rest of their lives—eventually they are going to have to return home—but if they want to become citizens they have to go home and apply for it just like anybody else. What does that mean? They have to be petitioned for by somebody, by an employer in this country. It takes about a year for them to acquire this status of legal permanent resident. That is how long it takes to get it. But once you get it, you can apply to become a U.S. citizen.

We are not punishing people for having violated our laws. Some would say you should not give them the opportunity to become citizens because they broke our laws. As Senator CHAMBLISS pointed out, we are not saying that. If they want to become legal permanent residents and apply for U.S. citizenship, they would have that right. All we ask is that they be treated just like anybody else who wants that right, which is to say they apply from their own country, not from the United States; that they wait the same period of time you would have to wait otherwise, a year; and then, if it is granted, they can apply for citizenship, and all the rest of it works just the same as it would for anybody legal.

What we say is that you cannot use the fact that you came to the United States illegally to get to stay here and stay here during the entire process that you are applying for legal permanent residency and U.S. citizenship. That gives you a big advantage, a leg up over those who are abiding by the law and who did not violate the law and come here illegally in the first place. There are other differences, but that is the most critical difference.

From our colleagues' standpoint, what we are saying is you can vote for a bill which grants a very simple, convenient, economical way for us to get the agricultural labor we need in this country, with all the protections for the laborers which one would expect, without having to grant amnesty to these individuals, and that is a big deal.

The second way the Kennedy-Craig legislation provides for amnesty is that it even provides for someone who came to this country illegally and is employed illegally here and who then went back to their home country to come back into the United States and get those same advantages as those who would otherwise have to wait a year for legal permanent residency and then later for citizenship. So it not only would apply to those who are here illegally today but those who claimed they worked in the United States illegally in the past. And who knows what kind of claims we are going to get there? Because, of course, the counterfeit documents, Social Security cards, driver's licenses, and other kinds of documents used to gain employment in the first instance can also be used to demonstrate the previous status of having illegally worked in the United States of America.

(Mr. CHAMBLISS assumed the chair.)

Mr. KYL. One of the reasons I believe our bill has more support is that it is more likely to become law, whether it is a stand-alone provision that relates only to agricultural workers or is part of a broader kind of immigration reform. I do not think many people believe the House of Representatives is going to pass a bill with amnesty, so we are trying to be practical about it. We would like to get something done, not simply run an ideological position up the flag pole in order to get a vote on it here in the Senate. That is why the American Farm Bureau is so strongly in support of our legislation and in opposition to our colleagues' legislation.

I ask unanimous consent to have printed in the RECORD a letter from the American Farm Bureau Federation dated April 13 to the Presiding Officer and myself.

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

AMERICAN FARM BUREAU FEDERATION,
Washington, DC, April 13, 2005.

Hon. SAXBY CHAMBLISS,
U.S. Senate,
Washington, DC.

Hon. JON L. KYL,
U.S. Senate,
Washington, DC.

DEAR SENATORS CHAMBLISS AND KYL: The American Farm Bureau Federation strongly supports the Chambliss-Kyl Amendment and urges its adoption when it is considered on the Senate floor.

This amendment would provide U.S. agriculture a clear, simple, timely and efficient H–2a program to fill seasonal and temporary jobs for which there is a limited U.S. labor supply. In order to recruit a worker from abroad, an employer would first have to make every reasonable effort to find an American worker. This is exactly the kind of meaningful reform that is necessary to provide all sectors of agriculture with a workable program while protecting American workers.

The measure also deals sensibly and fairly with illegal immigrants who are now working in agriculture, who meet strict criteria and who pose no security threat. Employers would petition to have such workers granted ''blue card'' temporary worker status. Once granted, a blue card would be valid for three years and could be renewed a maximum of two times (exceptions may be considered for supervisory employees.)

This amendment does not grant amnesty to illegal aliens. Blue card workers would have the right to change jobs, earn a fair wage and enjoy the same working conditions the law requires for American workers. Blue card workers would be protected by all labor laws. Blue card workers could travel freely and legally back and forth to their home country.

The Chambliss-Kyl proposal strikes a reasonable balance among employers, hard-working employees who are striving to better themselves and the need and obligation

of our country to control the flow of immigrants.

AFBF supports the Chambliss-Kyl amendment and we urge your fellow Senators to vote for this proposal when it is considered in the Senate.

Sincerely,

BOB STALLMAN,
President.

Mr. KYL. Let me read the opening to give a flavor of what the American Farm Bureau Federation is saying:

The American Farm Bureau Federation strongly supports the Chambliss-Kyl amendment and urges its adoption when it is considered on the Senate floor. This amendment would provide U.S. agriculture a clear, simple, timely and efficient H–2a program to fill seasonal and temporary jobs for which there is a limited U.S. labor supply. . . .

This measure also deals sensibly and fairly with illegal immigrants who are now working in agriculture, who meet strict criteria and pose no security threat.

This amendment does not grant amnesty to illegal aliens. . . .

The Chambliss-Kyl proposal strikes a reasonable balance among employers, hard-working employees who are striving to better themselves and the need and obligation of our country to control the flow of immigrants.

The American Farm Bureau Federation supports the Chambliss-Kyl amendment and we urge your fellow Senators to vote for this proposal when it is considered in the Senate.

In summary, we are going to have two proposals before us, one offered by the Senators from Massachusetts and Idaho. We urge you reject that proposal because it is not something that is ever going to become law. It provides amnesty for illegal immigrants here. The other is our proposal, which enables us to have a good, workable system for agricultural labor. It can pass both bodies, and it does not include amnesty.

I note when we begin debate on the supplemental appropriations we will have more of an explanation of what we have offered to our colleagues, but at least this way we have opened up the subject.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

CHANGING SENATE RULES

Mr. NELSON of Florida. Mr. President, I have had the pleasure of working with the Senator from Arizona in the finest tradition of the Senate, in bipartisanship. We are working together on an issue that is of great concern to the country, and that is the estate tax and whether it should be eliminated; if not totally eliminated, we are working on the prospect of having a significant exemption and doing something about the balance of a taxable estate as to what would be the actual rate at which the remainder of the estate would be taxed.

I raise this issue, although this is not the subject of my statement to the Senate, because I am following the distinguished junior Senator from Arizona. It has been my privilege to work with him in trying to achieve a bipartisan consensus. What I wish to talk about is achieving consensus in a town that is increasingly polarized by excessive partisanship and excessive ideological rigidity. This is a town in which it has gotten to the point, as told by Lesley Stahl, the CBS reporter, the other night, of an experience she had at a dinner party with nonelected officials—just normal folks at a dinner party in New York. The discussion turned to matters having to do with the subjects we are dealing with here in the Congress, and all of a sudden the mood in that salubrious dinner party turned hostile. People were starting to shout at each other, and any sense of civility was suddenly gone.

I worry about that here in the most collegial of all parliamentary bodies in the world—this one, right here, the Senate. It has been such a great privilege for me to be a part of it. Yet, as I see, as the debate is approaching, everything is so partisan and everything starts to take on the tinge of ''it's either my way or the highway.'' That is not only not how this Nation has been governed under the Constitution for 217 years, that is, indeed, the very birthright we have had in this Nation—compromise, compromise, and bringing together consensus in order to have a governing ability to function. That was how we came out with the Constitution that we did in that hot summer session of the Constitutional Convention in Philadelphia back in 1787. Yet I wonder if we are losing some of that glue that brings us together and has us start drawing up consensus by reaching out to the other Senators and molding our ideas together in order to govern a very large country, a broad country, a diverse country, a complicated country.

You can't do it with just one opinion.

I have heard some of the statements when I have been interviewed on programs such as CNN and FOX. There were other Senators on these programs with me. I shake my head, wondering how someone could say those things.

It is this question this Senate is going to face, whether the rules of this body are going to be changed in order to cut off the ability of a Senator to stand up and speak for as long as he or she wants on a subject of importance to that Senator, and whether that ability, known as a filibuster, is going to be taken away from us.

What is the history of the filibuster? If you think about how the filibuster works in the Senate, 217 years ago there was no limitation on a Senator being able to stand up and speak. For over a century, the rules provided a Senator could not be cut off. Early in the last century, that was changed so that if 67 Senators voted to cut off debate, then the debate would be closed. That was a supermajority.

Later on—sometime, I believe, in the 1960s—that threshold of 67 was lessened to 60. That is the rule we operate under now. A Senator can stand up and talk and talk and talk. The ability to speak in this body is such that the filibuster helps to encourage compromise. It is saying to the majority that because they have an idea, they can't force that idea unless they get 60 votes, and that causes the majority to have to listen to the minority. It brings about encouragement of compromise.

I don't think we ought to do away with the filibuster. Yet that is what the Senate is about to do, if the rules are amended.

Interestingly, the rules of the Senate say it takes 67 Senators to amend the rules. But we all have been told of a plan whereby the Presiding Officer, the Vice President of the United States—and the majority leader would make a motion and the Chair, the Vice President, the President of the Senate, would rule, and a 51-vote majority would change the rules of the Senate. It is my understanding that the Parliamentarian of the Senate has in fact stated you can't change the rules that way. Yet it looks as though the majority leader, encouraged by the majority, is going to try to change the rules—not according to the Senate rules. In other words, it seems the majority is breaking the rules in order to change the Senate rules.

I don't think that is right. I don't think we ought to be changing the rules in the middle of the game. I don't think it is right to overrule the Parliamentarian of the Senate, who is not a partisan official.

I think this starts to verge on the edges of riskiness, if we start operating this Senate under those kind of rules, rules that are breaking the rules in order to change the rules.

Another way you could put it is that we talk about the majority is threatening to break the rules to win every time. Is that what the Senate is all about? Isn't the Senate about the majority having to consult the minority, because under the rules of the Senate, minority rights are protected so the majority cannot completely run over the minority? Isn't that what is the history and precedent of 217 years in the Senate? I think the history of this body would show that is the case, especially if we get to the point that this body is going to overrule the Parliamentarian. I think that is verging on an abuse of power of the majority.

Remember also a truth—that today's majority will be tomorrow's minority, and the minority should always be protected.

There is another reason; that is, this group of political geniuses who happened to gather in Philadelphia back in that hot summer of 1787 created a system that had indeed separation of powers—that no one institution or one person in the Government of the United States could become so all powerful as to mow over other persons in the institution.

In that separation of powers of the executive from the legislative and from the judicial, they also created checks and balances inherent in the Constitution so that power cannot accumulate

in any one person's hands. Thus, in the Congress they created a House of Representatives which represents the population, and a Senate, which was the Great Compromise in the Constitutional Convention of 1787—the Senate that represented each State equally with two Senators. In the rules that evolved from that body, the checks and balances arose to protect the minority.

Let us look in the separation of powers, the executive, the legislative, and the judicial. What was created, and created over time, was the value of an independent judiciary, a judiciary that was going to be appointed in a two-step process. A one-step process that the Constitutional Convention rejected was that the appointment be only by the President. The Constitutional Convention created a two-step process in which the President nominates and the Senate confirms or rejects. That is part of the checks and balances.

I must say, as a senior Senator from Florida, I have been absolutely bewildered at statements I have heard on the floor of the Senate as well as I have heard from some of my colleagues when we have been interviewed on these news programs in which it is claimed we are rejecting all of these judges. Let me tell you what this Senator from Florida has done. Of the 215 nominations before the Senate, this Senator has voted for 206 of them. That means there are only 9 this Senator has not voted for. In other words, under the administration of President George W. Bush, I have voted for 206 of his 215 nominations. That is 96 percent I voted for.

Does that sound as though this Senator is not approving all of the conservative judges? Every one of those judges who have come forth to us was a conservative judge. I have voted for 96 percent of them. I can tell you that the 9 I have not voted for—by the way, I voted for one a majority of my party voted against, and that was Miguel Estrada. But I had reasons, because I called him in and asked him if he would obey the law as a court of appeals judge. He said he would. I said that is good enough for me. But the remaining nine, I have plenty of reasons why I do not think they are entitled to a lifetime appointment as a Federal judge.

That is my prerogative as a Senator, and it is also my prerogative as a Senator under the rules of the Senate to stand up and to speak as long as this Senator has breath in order to get that opinion across.

I have been amazed to hear some of my colleagues say here on the Senate floor as well as in some of these television interviews that we have done—and sometimes done together—that utilizing the filibuster has never been used, they say, against a judge nominee. My goodness, all you have to do is look at history. In 1881, Stanley Matthews was nominated by President Hayes to be a Justice of the Supreme Court, and he was filibustered. In 1968, Abe Fortas was nominated by President Johnson to be Chief Justice of the United States Supreme Court, and he was filibustered.

Since the start of the George W. Bush administration in 2001, 11 judicial nominations have needed 60 votes for cloture in order to end a filibuster. That is before President Bush's term which started in 2001.

How people can come with a straight face and say a filibuster has not been used on judicial appointments, I simply don't understand. It defies the historical record of the Senate.

I think there are several principles that are very important as we consider this. It is my hope—and I have reached out to colleagues, dear personal friends who are friends regardless of party—that we can avoid this constitutional clash which should not be and changing the rules by breaking the rules.

Remember, a filibuster is to help encourage compromise. We shouldn't be changing the rules in the middle of the game. The underlying principle I want our Senators to remember as we get into this debate—hopefully it will be headed off by cooler minds. As the Good Book says, come now and let us reason together. Remember these principles.

The Constitution stands for an independent judiciary. There are very necessary checks and balances in our form of government to keep the accumulation of power from any one agency, or executive branch, or person's hands.

We should not be overruling the Parliamentarian. We must encourage compromise. To change the rules in the middle of the game is bordering on an abuse of power. Surely the Senate can rise above this partisan, highly ideological set of politics and come together for the sake of the Nation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I will speak in morning business to the point discussed by my colleague from Florida. I understand another Senator was going to be here; when he arrives, I will yield the floor.

It is important for my colleagues and for the American people to appreciate a little bit of the background of this issue with respect to judges. My colleague from Florida makes a point that he has voted for most of the President's judicial nominees. Indeed, that has been the case with every Senator for every President.

But until the last 2 years, we have voted both for district court nominees and circuit court nominees. Two years ago, the Democratic minority began filibustering circuit court nominees. That is why President Bush has had a lower percentage of his nominees approved than any President since Franklin Roosevelt for the important circuit court positions. In fact, a third of President Bush's circuit court nominees were filibustered or could not be brought to a vote because they would have been filibustered; fully 17 out of around 35.

So when our colleagues on the other side of the aisle talk about the large number of judges they have approved, they are folding in all of the Federal district court nominees everyone has always voted for. That is not the appropriate measure. The question is, how many circuit court nominees? Never before, in the history of our country, have we seen circuit court nominees or district court nominees, for that matter, but circuit court nominees filibustered in this manner—ten separate judges we could not come to a final up-or-down vote, seven more who would have had the same fate had they been voted for. That has never happened before in the history of the country.

Our colleague from Illinois was discussing the fact that a former Senator from New Hampshire had, in this Senate, talked about filibuster, following a couple of judges for the Ninth Circuit Court of Appeals. In fact, that Senator had said that. The interesting point is, even though he, a single Senator, wanted to filibuster the nominees—their names were Berzon and Paez—the Republican leader, TRENT LOTT from Mississippi, made an arrangement with the then-Democratic leader, Daschle from South Dakota, that they would not be filibustered, and we filed cloture, which is the petition to bring the matter to a close so we could take a final vote. Senators on both sides of the aisle supported the cloture motion, so they supported getting to a final vote on those two judges. Of course, cloture was invoked, meaning they were not filibustered.

They were brought up for a vote. Some voted against them—I voted for Berzon and against Paez—but the net result is they are both sitting on the Ninth Circuit Court of Appeals today. They were not filibustered. So there is no case of a filibuster of the circuit court judge. None.

Second, the only other situation in which it is alleged a filibuster occurred was with Abe Fortas, whose name was withdrawn by Lyndon Johnson the day after a cloture vote failed to succeed. As Senator Griffin from Michigan, who was then leading that opposition to Abe Fortas, has told me and others, there was no effort to filibuster because they had the votes to kill the judge. They simply had not had time to debate him, which is why they voted against the cloture, but as a result of the President acknowledging he had no support in the Senate, his name was withdrawn.

There has never been a filibuster of a Supreme Court or circuit court judge in the United States—it simply is erroneous to suggest there has been—nor is it correct to say we have been voting on all of these different judges. If you take the district court judges out, about whom there is no controversy, there is a huge issue because fully a third of the President's circuit court

nominees were not voted on because of this new filibuster by the Democratic minority.

We need to have some perspective. Who is changing the rules? Until 2 years ago, all the judges got up-or-down votes. Judges that could not even get out of the Judiciary Committee with a majority vote were granted the privilege or courtesy of a vote in the Senate. During the debate when Clarence Thomas was being confirmed, several leading Democratic Senators came to the Senate to oppose Judge Thomas. They said they actually had thought about trying to filibuster his nomination but that would be wrong because filibustering judicial nominees is wrong. Senator LEAHY, Senator KENNEDY, and others came to this floor and said, we do not know whether we will defeat Clarence Thomas or not, but we are not going to defeat him with a filibuster because that would be wrong.

Sure enough, they were correct. They lost the vote, 48–52. He was confirmed. I admired them because they stood for principle. The rule and the tradition of this body had always been we give the nominees an up-or-down vote, but if they could get 51 votes for confirmation, they became a circuit court judge or a Supreme Court justice. That is what happened in the case of Clarence Thomas.

Now, all of a sudden, it has been turned around, and the Democratic minority, almost to a person, has said they believe judges should be filibustered, and the President's nominees are not going to get an up-or-down vote if they decide they want to filibuster a particular nominee.

As I said, at least a third of these circuit court nominees so far have been filibustered. It is our understanding that practice will continue unless we can get back to the way it has always been, the traditional role of the Senate in providing advice and consent with a majority vote, up or down.

It has also been suggested the President is nominating a new, wild variety of lawyers and judges to be circuit court judges, way out of the mainstream kind of people. This, of course, is absolutely ludicrous. The kind of people that President Bush has nominated are respected jurists or lawyers.

The American Bar Association, which used to be the Democrat's gold standard for approving the judicial nominees, has judged all of these candidates qualified. Yet somehow some of our colleagues on the left say they are out of the mainstream. My colleague on the Judiciary Committee, the Senator from New York, for example, has made this charge on several occasions.

I ask, who is probably more representative of the mainstream? A single Senator from a State, for example, like New York? Or the President of the United States who had to get elected with support from all over this country? I don't think anyone would say George Bush is out of the mainstream, that President Bush is out of the mainstream of this country.

Who are some of the people he has nominated? Some are judges who have had to stand for election, for example, in California and Texas, and have received supermajorities, 70 or 80 percent. I have forgotten the exact numbers of support from the citizens of their States. One is a blue State. One is a red State. When well over 50 or 60 percent of the citizens in this State vote to support these judges to continue in office on their State supreme court, you would hardly say these nominees are out of the mainstream. Yet those two particular judges, Janice Rogers Brown from California and Percilla Owen from Texas, are the ones for whom this filibuster has been applied.

It does not make sense to suggest a tradition of this Senate to give people an up-or-down vote is going to be overturned because all of a sudden a President is proposing people who are wildly out of the mainstream.

What has the Republican majority at least considered doing? Simply returning to the way it has always been, to going back to the 200 years—before 2 years ago—and giving people an up-or-down vote. Members can still vote against the nominee. Members do not have to vote for the nominee, but at least give them an up-or-down vote. We do that based upon the precedence that has been set by the then-majority leader of this Senate, the Senator from West Virginia, who, on not fewer than four separate occasions, utilized the precedence of this body to ensure that dilatory tactics could not prevail in this Senate and that we could move forward with the business of the Senate.

It is the very same precedent that would be used to reestablish the up-or-down vote which has been the tradition of this Senate all along. That is not rubberstamping. That is giving due consideration to these nominees and giving them an up-or-down vote at the end of the day.

When Americans look at this sort of intramural battle occurring in the Senate, they have to wonder why this is happening, why it is so important. I suspect it may have something to do with the fact there might be a vacancy on the Supreme Court, and our friends on the other side of the aisle are so afraid President Bush might nominate someone who could gain majority support they are prepared to actually refuse that nominee an up-or-down vote. That would be unprecedented in the history of this body. I don't think it is right.

Some people have called this the nuclear option because they threatened to blow the Senate up if we try to return to the traditional rule of an up-or-down vote in the Senate. That is a very unfortunate name and a very unfortunate threat. No one should be threatening to go nuclear or blow the place up or prevent the Senate from doing its business. Our constituents sent us here for a reason, to get work done, to pass a budget, to pass the appropriations bill, to pass the bill that is before the Senate right now, the supplemental appropriations bill that will literally fund our troops' effort in Afghanistan and Iraq, to pass an energy bill, to pass a defense authorization bill, all of the other important things they want us to do here.

Yet we have some colleagues suggesting, if they do not get their way on these judges, like a school-yard bully who has a call go against him by the referee and picks up his ball and goes home so the rest of the kids cannot play. Is that the threat here; pick up your ball and go home so the rest of us cannot do the business we were sent here to do?

Let me make one final prediction. Last time we met as members of the Judiciary Committee, we could not get a quorum to do business. Not one member of the minority party showed up. We have to have at least one for a quorum. This was not the last meeting but the penultimate meeting. They said there were three members going to the funeral of the Pope; 3 out of 9. I predict, at another meeting on Thursday—and we need to pass the judges out to consider them on the floor—they will not give a quorum then, they will not show up or, if they do show up, they filibuster it so we cannot get the judges adopted. I predict right now the judges that are on the agenda for that meeting this coming week will not be passed out. They might pass out one or two, but they are not going to allow us to pass all of those judges so they can be considered by the full Senate.

It was Members of the minority party who complained, while Republicans never filibustered, they did keep some of President Clinton's judicial nominees bottled up in committee. We will see whether they are willing to pass these nominees—I think there are 6 or 7 pending—we will see whether or not they are willing to show up for the meeting so there is a quorum and enabling the committee to pass them out to the full body so we can debate the nominees or whether they talk and talk and talk until the meeting has to end, no one else is around, and we no longer have a quorum or they simply do not show up for a quorum.

We will see what they do. I predict right now my colleagues are not going to allow us to get those judges to the Senate so we can begin the debate and the consideration of whether they should be confirmed. That will be a real shame and, again, a violation of what this Senate has always done in the past, even when we did not particularly think a nominee should receive an affirmative vote on the floor. I believe Clarence Thomas was in this situation. The committee passed him to the Senate to see what the full body would do to give its advice and consent which is what the Constitution calls upon us to do.

I close by urging my colleagues not to confuse this discussion with erroneous information or talk about things

that are in a history that never was but, rather, to approach it on the basis of moving forward, in a bipartisan way, to fill our constitutional responsibilities to grant these judges an up-or-down vote by our advice and consent so we can put people on the court in these very important positions to serve the American people.

Mr. CHAMBLISS. Mr. President, 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.

Mr. LEAHY. 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. LEAHY. Mr. President, I ask unanimous consent to speak in morning business for not to exceed 14 minutes.

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

The Senator from Vermont.

MARLA RUZICKA

Mr. LEAHY. Mr. President, this is a matter which I and my friend from California, Senator BOXER, will be speaking about later this afternoon, and that is the tragic death of a remarkable young Californian, Marla Ruzicka.

Marla was the founder of a humanitarian organization devoted to helping the families of Afghan and Iraqi civilians who have been killed or suffered other losses as a result of U.S. military operations. She died in Baghdad on Saturday from a car bomb while she was doing the work she loved and for which so many people around the world admired her.

In fact, Tim Rieser, in my office, has worked closely with her. We received e-mails about the work she was doing, and even photographs of people she was helping arrived literally minutes before she died.

I will speak later today about this. But she was a remarkable person. When I spoke with her family in California yesterday, I told them this was a life well worth living, that most people would not accomplish in their lifetime what this 28-year-old wonderful woman accomplished in hers.

JUDICIAL NOMINATIONS

Mr. LEAHY. Mr. President, I am going to speak on another matter. We have learned that those who are intent on forcing confrontation, breaking the Senate rules, and undercutting our democratic checks and balances plan to take their previous outrageous allegations of religious McCarthyism one step further and accuse Democrats of being ''against people of faith'' because we object to seven—seven—of the President's more than 200 judicial nominations.

If you followed the sick logic of this venom being spewed by some of the leaders in this Chamber, we would have to say that 205 judicial nominees forwarded by the President, whom the Democratic Senators have helped to confirm, would seem not to be people of faith, even though that is as false and ridiculous on its face as is the charge leveled at Democratic Senators.

This disgusting spectacle, this smear of good men and women as ''against faith'' is expected to happen, in of all places, a house of worship, according to a front-page article last week in the New York Times. It will involve twisting history, as well as religion, because according to the report, those involved will claim that Democratic Senators are using the filibuster rule to keep people of faith off of the Federal bench.

This slander is so laden with falsehoods, so permeated by the smoke and mirrors of partisan politics, and so intertwined with one man's personal political aspirations that it should collapse of its own weight. But too many who should speak out against it remain violent.

Republicans on the Senate Judiciary Committee began blatantly to invoke obscene accusations like this one earlier in the Bush administration. They hurled false charges against Senators saying they were anti-Hispanic or anti-African American, anti-woman, anti-religion, anti-Catholic, and anti-Christian for opposing certain judicial nominees.

They never bothered to mention the same Senators who were making these slanderous statements had blocked, themselves, many, many, many—over 60—Hispanics, women, certainly people of faith. And they never bothered to say the Senators they were slandering had supported hundreds of nominees, including Hispanics, African Americans, women, and people of faith—Catholic, Christian, and Jewish. They never hesitated to stoke the flames of bigotry, and to encourage their supporters to continue the smear in cyberspace or on the pages of newspapers or through direct mail.

Actually, to the contrary, they seemed to like the way it sounded. Maybe it tested well in their political polls. Now they have decided to up the ante on such ''religious McCarthyism,'' as a way to help them tear down the Senate and do away with the last bastion against this President's most extreme judicial nominees. It is crass demagoguery, and it is fueled by the arrogance of power.

They now seek to make a connection between the dark days of the struggle for civil rights, when some used the filibuster to try to defeat equal rights laws, and the situation we find ourselves in today when the voice of the minority struggles to be heard above the cacophony of daily lies and misrepresentations. This tactical shift follows on the rhetorical attacks aimed at the judiciary over the past few weeks in which Federal judges were likened to the KKK and ''the focus of evil.''

In the last few weeks, we have heard that, at an event attended by Republican Members of the Congress, people called for Stalinist solutions to problems, referring to Joseph Stalin's reference to killing people he disagreed with, and calling for mass impeachments. Wouldn't you think the Members of Congress, who have taken an oath to uphold the Constitution, would speak up or at least leave with their heads bowed in shame, instead of, apparently, enjoying it?

Last week, the Senate Democratic leadership called upon the President and the Republican leadership of Congress to denounce these inflammatory statements against judges. This week, I renew my call to the Republican leader and, in particular, to Republican moderates, to denounce the religious McCarthyism that is again pervading their side of this debate.

I ask my friends on the other side of the aisle to follow the brave example of one of Vermont's greatest Senators, Republican Ralph Flanders. Senator Flanders recognized a ruthless political opportunist when he saw one. He knew Senator Joseph McCarthy had exploited his position of power in the Senate to smear hundreds of innocent people and win headlines and followers, and campaign contributions, with his false charges and innuendo, without regard to facts or rules or human decency.

Senator Flanders spoke out during this dark chapter in the history of this great institution. He offered a resolution of censure condemning the conduct of Senator McCarthy. Now, in our time, a line has again been crossed by some seeking to influence this body. I ask my friends on the other side of the aisle to follow Senator Flanders' lead in condemning the crossing of that line.

I have served with many fair-minded Republican Senators. I am saddened to see Republican Senators stay silent when they are invited to disavow these abuses. Where are the voices of reason? Will the Republicans not heed the clarion call that Republican Senator John Danforth sounded a few weeks ago? And he is an ordained Episcopal priest. What has silenced these Senators who otherwise have taken moderate and independent stands in the past? Why are they allowing this religious McCarthyism to take place unchallenged? The demagoguery that is so cynically and corrosively being used by supporters of the President's most extreme judicial nominees needs to stop.

Not only must this bogus religious test end, but Senators should denounce the launching of the nuclear option, the Republicans' precedent-shattering proposal to destroy the Senate in one stroke, while shifting the checks and balances of the Senate to the White House.

I would like to keep the Senate safe and secure and in a ''nuclear free'' zone. Even our current Parliamentarian's office and our Congressional Research Service has said the so-called nuclear option would go against Senate

precedent and require the Chair to overrule the Parliamentarian. Is this how we want to govern the Senate? Do Republicans want to blatantly break the rules for some kind of a short-term political gain?

Just as the Constitution provides in Article V for a method of amendment, so, too, the Senate Rules provide for their own amendment. Sadly, the current crop of zealot partisans who are seeking to limit debate and minority rights in the Senate have no respect for the Senate, its role in our government as a check on the executive or its Rules. Republicans are in the majority in the Senate and chair all of its Committees, including the Rules Committee. If Republicans have a serious proposal to change the Senate Rules, they should introduce it. The Rules Committee should hold serious hearings on it and consider it and create a full and fair record so that the Senate itself would be in position to consider it. That is what we used to call ''regular order.'' That is how the Senate is intended to operate, through deliberative processes and with all points of view being protected and being able to be heard.

That is not how the ''nuclear option'' will work. It is intended to work outside established precedents and procedures as explained by the Congressional Research Service report from last month. Use of the ''nuclear option'' in the Senate is akin to amending the Constitution not by following the procedures required by Article V but by proclaiming that 51 Republican Senators have determined that every copy of the Constitution shall contain a new section or different words—or not contain some of those troublesome amendments that Americans like to call the Bill of Rights. That is wrong. It is a kind of lawlessness that each of us should oppose. It is rule by the parliamentary equivalent of brute force.

The recently constituted Iraqi National Assembly was elected in January. In April it acted pursuant to its governing law to select a presidency council by the required vote of two-thirds of the Assembly, a supermajority. That same governing law says that it can only be amended by a three-quarters vote of the National Assembly. Use of the ''nuclear option'' in the Senate is akin to Iraqis in the majority political party of the Assembly saying that they have decided to change the law to allow them to pick only members of their party for the government and to do so by a simple majority vote. They might feel justified in acting contrary to law because the Kurds and the Sunni were driving a hard bargain and because governing through consensus is not as easy as ruling unilaterally. It is not supposed to be, that is why our system of government is the world's example.

If Iraqi Shiites, Sunni and Kurds can cooperate in their new government to make democratic decisions, so can Republicans and Democrats in the United States Senate. If the Iraqi law and Assembly can protect minority rights and participation, so can the rules and United States Senate. That has been the defining characteristic of the Senate and one of the principal ways in which it was designed to be distinct from the House or Representatives.

This week, the Senate is debating an emergency supplemental appropriations bill to fund the war efforts in Iraq and Afghanistan. The justification for these billions of dollars being spent each week is that we are seeking to establish democracies. How ironic that at the same time we are undertaking these efforts at great cost to so many American families, some are seeking to undermine the protection of minority rights and checks and balances represented by the Senate through our own history. Yet that is what I see happening.

President Bush emphasized in his discussions earlier this year with President Putin of Russia that the essentials of a democracy include protecting minority rights and an independent judiciary. The Republican ''nuclear option'' will undermine our values here at the same time we are preaching our values to others abroad.

I urge Senate Republicans to listen carefully to what their leaders are saying, here in the Senate, and out across the country to their most extreme supporters. Consider what it is they are about to do and the language they use to justify it. Both are wrong. It would steer the Senate and the country away from democracy, away from the protections of the minority and away from the checks and balances that ensure the freedoms of all Americans.

I would also like to talk for a moment about the independence of the judiciary. I have expressed my concern that members of Congress have suggested judges be impeached if they disagree with the judges' decisions. Republicans rushed through legislation telling federal judges what to do in the Schiavo case, and then criticized the judges when they acted independently, judges appointed by President Reagan, by former President Bush, and by President Clinton. They were all criticized for that, although there are still those who are saying we should impeach the judges, or as I mentioned earlier in my speech, one speaker at a recent conference, to the cheers of some suggested Joseph Stalin's famous ''No man. No problem'' solution, because he killed those who disagreed.

I remember a group of Russian parliamentarians came to see me to talk about federal judiciary, and they asked, ''Is it true that in the United States the government might be a party in a lawsuit and that the government could lose?'' I said, ''Absolutely right.'' They said, ''People would dare to sue the government?'' I said, ''We have an independent judiciary, yes, they could.'' They said, ''Well, if the government lost, you fire the judges, of course?'' I said, ''No, they are an independent judiciary.'' And I remember the discussion around the conference room in my office. This was the most amazing thing to them, that the people who disagreed with the government could actually go to a federal court or a state court, bring a suit there and seek redress even if it meant the government lost. Sometimes it wins, sometimes it loses. I was a government prosecutor. I know how that works. I think they finally understood that the reason we are such a great democracy is that we have an independent judiciary.

I would call out to my friends on the other side of the aisle to stop slamming the federal judiciary. We don't have to agree with every one of their opinions but let's respect their independence. Let's not say things that are going to bring about further threats against our judges. We've had a lot more judges killed than we've had U.S. Senators killed for carrying out their duties. We ought to be protecting them and their integrity. If we disagree with what they've done in a case where we can pass a law and we feel we should, then pass a law and change it. Don't take the pot shots that put all judges in danger and that attack the very independence of our federal judiciary.

We remember our own oath of office. Part of upholding the Constitution is upholding the independence of the third branch of government. One party or the other will control the presidency. One party or the other will control each House of Congress. No political party should control the judiciary. It should be independent of all political parties. That was the genius of the founders of this country. It is the genius that has protected our liberties and our rights for well over 200 years. It is the genius of this country that will continue to protect them if we allow it to. It would be a terrible diminution of our rights and it would be one of the most threatening things to our whole democracy if we were to remove the independence of our federal judiciary. That would do things that no armies marched against us have ever been able to do. None of the turmoil, the wars, all that we've gone through in this country has ever been able to do. If you take away the independence of our federal judiciary, then our whole constitutional fabric unravels.

I will close with one little story. One day, years ago, on the floor of this Senate, there was an attempt, in a court-stripping bill, to remove jurisdiction of the Federal courts because one Senator did not like a decision they came down with. It was decided if there had not been a vote by 4 o'clock on a Friday afternoon, we would not vote on it. So three Senators took the floor to talk against it—myself, former Republican Senator, Lowell Weicker of Connecticut, and one other. We spoke for several hours, and the bill was drawn down.

Now, I do not remember what the decision was of the Federal court.

I may have agreed with it. I may have disagreed. I did not want to see us making the Senate into some kind of a supreme court that would overturn any decision we didn't like. On the way out, the third Senator came up to Lowell Weicker and myself and linked his arm in ours, and he said: We are the only true conservatives on this floor because we want to protect the Constitution and not make these changes.

I turned to him and I said: Senator Goldwater, you are absolutely right.

I was glad Barry Goldwater, Lowell Weicker, and I stood up for the Constitution, stood up for the independence of the Federal judiciary. It probably was unpopular to do so, but I think Senator Goldwater, Senator Weicker, and I all agreed it was the right thing to do.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT, 2005

The PRESIDING OFFICER. Under the previous order, the hour of 2 p.m. having arrived, the Senate will resume consideration of H.R. 1268, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1268) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

Pending:

Mikulski amendment No. 387, to revise certain requirements for H–2B employers and require submission of information regarding H–2B nonimmigrants.

Feinstein amendment No. 395, to express the sense of the Senate that the text of the REAL ID Act of 2005 should not be included in the conference report.

Bayh amendment No. 406, to protect the financial condition of members of the reserve components of the Armed Forces who are ordered to long-term active duty in support of a contingency operation.

Durbin amendment No. 427, to require reports on Iraqi security services.

Salazar amendment No. 351, to express the sense of the Senate that the earned income tax credit provides critical support to many military and civilian families.

Dorgan/Durbin amendment No. 399, to prohibit the continuation of the independent counsel investigation of Henry Cisneros past June 1, 2005 and request an accounting of costs from GAO.

Reid amendment No. 445, to achieve an acceleration and expansion of efforts to reconstruct and rehabilitate Iraq and to reduce the future risks to United States Armed Forces personnel and future costs to United States taxpayers, by ensuring that the people of Iraq and other nations do their fair share to secure and rebuild Iraq.

Frist (for Chambliss/Kyl) amendment No. 432, to simplify the process for admitting temporary alien agricultural workers under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act, to increase access to such workers.

Frist (for Craig/Kennedy) modified amendment No. 375, to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers.

DeWine amendment No. 340, to increase the period of continued TRICARE coverage of children of members of the uniformed services who die while serving on active duty for a period of more than 30 days.

DeWine amendment No. 342, to appropriate $10,000,000 to provide assistance to Haiti using Child Survival and Health Programs funds, $21,000,000 to provide assistance to Haiti using Economic Support Fund funds, and $10,000,000 to provide assistance to Haiti using International Narcotics Control and Law Enforcement funds, to be designated as an emergency requirement.

Schumer amendment No. 451, to lower the burden of gasoline prices on the economy of the United States and circumvent the efforts of OPEC to reap windfall oil profits.

Reid (for Reed/Chafee) amendment No. 452, to provide for the adjustment of status of certain nationals of Liberia to that of lawful permanent residence.

AMENDMENT NO. 418

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the pending amendment be set aside be in order that I may offer an amendment.

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

Mr. CHAMBLISS. I call up amendment No. 418.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS], for himself, Mr. ISAKSON, Mr. PRYOR, Mr. INHOFE, Mr. LUGAR, Mrs. DOLE, Mrs. LINCOLN, Mr. BAYH, Mr. REED, Mr. CHAFEE, and Mr. BYRD, proposes an amendment numbered 418.

Mr. CHAMBLISS. 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 prohibit the termination of the existing joint-service multiyear procurement contract for C/KC-130J aircraft)

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC-130J AIRCRAFT

SEC. 1122. No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC-130J aircraft that is in effect on the date of the enactment of this Act.

AMENDMENT NO. 418, AS MODIFIED

Mr. CHAMBLISS. Mr. President, I send a modification to the desk and I ask unanimous consent that Senator ALLEN be added as a cosponsor.

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

The amendment is so modified.

The amendment, as modified, is as follows:

On page 169, between lines 8 and 9, insert the following:

PROHIBITION ON TERMINATION OF EXISTING JOINT-SERVICE MULTIYEAR PROCUREMENT CONTRACT FOR C/KC-130J AIRCRAFT

SEC. 1122. During fiscal year 2005, no funds may be obligated or expended to terminate the joint service multiyear procurement contract for C/KC-130J aircraft that is in effect on the date of the enactment of this Act.

Mr. CHAMBLISS. Mr. President, this amendment will prohibit any fiscal year 2005 funds from being used to terminate the C–130J multi-year procurement contract.

In hearings before this body over the past several weeks Department of Defense personnel have admitted that when they made the decision to terminate this contract in December of last year that they did not have all the information needed to make that decision. Since PBD 753 was drafted in December 2004, we have learned that the cost to terminate this contract is approximately $1.6 billion.

Also over the past several months we have seen the C–130J, KC–130J, as well as C–130s operated by our coalition partners in Iraq perform superbly throughout USCENTCOM. To date, C–130Js in Iraq have flown over 400 missions, with a mission capable rate of 93 percent and have performed all assigned missions successfully. KC–130Js have flown 789 hours in Iraq with mission capable rates in excess of 95 percent. Nevertheless, the Department of Defense has not yet submitted the amended budget request for this program that they discussed during hearings. That is why this amendment is necessary.

I am introducing this amendment to make sure that this program, which is performing extremely well and which meets validated Air Force and Marine Corps requirements, is not prematurely cancelled and that the Department of Defense follows through with their commitment to complete the multiyear procurement contract.

There are some issues with the current contract being a commercial contract versus a traditional military contract. My colleague, Senator MCCAIN, and I agree that a traditional contract is more appropriate in this case and applaud the Air Force's decision to begin

transitioning the program in that direction. However, I think we can all agree, that regardless of how these planes are procured, that the United States military needs them and they are demonstrating their value to the warfighter, and to the taxpayer today.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, I think we are now ready to begin a conversation. There are several colleagues here, including the Senators from Georgia, Alabama, and Idaho, we would like to discuss this issue we are going to be voting on tomorrow. Our colleagues need to have a clear picture of what we will be voting on.

There are two basic versions of legislation to try to make it easier for agricultural employers to hire people who are temporary workers or who have been in the United States illegally and can be employed under the bills proposed here. There are two different approaches. One is the approach of the Senator from Idaho—I will defer to him in a moment to have him discuss his approach—and the other approach Senator CHAMBLISS and I have offered. There are a couple of key differences. They both approach the problem from the standpoint of broadening the way in which legal immigrants can come to the country and be employed legally in agriculture and taking illegal immigrants who are currently not working within the legal regime, using counterfeit or fraudulent documents—and, everybody knows, being employed illegally—and enabling them to work for a temporary period of time legally in this country.

The primary difference between the approaches is over the question of amnesty. Regarding that, I think everybody would have to admit—and different people have different definitions of what amnesty is—everybody would have to agree, if there is a difference in how you can become a legal, permanent resident in this country or a citizen, you would have to agree, if someone is granted an advantage over an applicant for legal permanent residency or citizenship status in another country, if they are given an advantage because they came here illegally and counterfeited documents to get employment and worked here illegally, to give them an advantage over people who are seeking to come here legally is giving them an advantage that would amount to amnesty. You should not be able to use, in other words, your illegal status to bootstrap yourself into a position of legal, permanent residency or citizenship.

I pointed out before, under the bill of the Senators from Massachusetts and Idaho, there would be an ability for people not in the United States but who would like to come here to claim they worked in the country illegally, and that would give them an ability to come here and apply for this same status. So, ironically, we would be turning on a neon sign that says come here with documents—they could be fraudulent and you could have defrauded us before—and claim that you worked in the country illegally, and we will let you come back in again.

I don't know how you give people an advantage on the basis they violated our law. You would think you would want to give people an advantage who have played by the rules. That is the second way in which this bill grants amnesty and is not the right approach. As my colleague from Georgia talked about, we would be changing, for the first time, a law to allow the Legal Services Corporation to represent these illegal immigrants, which is something we have not been willing to do in the past. We have to be careful because the reason illegal immigrants are working here is the current H2–A law is so cumbersome to use, it is so subject to abuse and costs money and takes time and you can be sued, and so on, that employers don't like to use it. It is just not worth it to them. If we are going to have a bill that is no easier to use, there is not going to be any advantage over the current law and, as a result, it is going to be difficult for farmers to utilize this new provision if they have to look over their shoulder and wonder if the Legal Services Corporation is going to file a lawsuit.

Mr. CHAMBLISS. Will the Senator yield?

Mr. KYL. Yes.

Mr. CHAMBLISS. Mr. President, I ask the Senator, doesn't the AgJOBS bill, as well as the Chambliss-Kyl amendment, recognize there is a need in this country for agricultural workers to do the job that is not being done by American workers today, and we are not displacing American workers?

Mr. KYL. Mr. President, that is a very good question. I think all of us would agree that we cannot be displacing American workers. We are currently not doing that today. There is a need for these employees, and it is really a question of which approach is the better one, to ensure we can match a willing worker with a willing employer without granting amnesty.

Mr. CHAMBLISS. Would the Senator from Arizona yield for another question?

Mr. KYL. Yes.

Mr. CHAMBLISS. Does the Chambliss-Kyl amendment not take the current H2–A program, which is very cumbersome and requires a lot of paperwork and requires the adverse effect wage rate to be paid, and streamline that program to where it is more easily usable by farmers who now simply don't use it because it is cumbersome? Does it alleviate some of the problems?

Mr. KYL. Yes. We change the wage rate to the prevailing wage. We make it easier for the farmer to demonstrate that there are not American workers available to do the jobs. We make it easier, cheaper, faster, but with protections for the employees.

I think all of that is why the American Farm Bureau Federation has endorsed our legislation as the best way for them to satisfy these employment needs.

Mr. President, I will close and allow my colleagues the opportunity to speak. Senator CRAIG wants to disagree with us, and I want to give him that opportunity. Let me allow him to describe his bill, and we can have a debate back and forth as to which bill better satisfies our employment needs or requirements but doing so in a way that we can actually get a bill passed and sent to the President; i.e., a bill that doesn't include amnesty.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I appreciate the Senator from Arizona finally coming to the floor with a piece of legislation. For the last several years, I have challenged the Senate to deal with what I believe, and I think most colleagues believe, is a very urgent problem. Our borders, as much money as we have poured into them and as many new border patrolmen as we have put along them—primarily our southern border today—are still being overrun substantially by illegal people crossing.

While we have been trying, since 9/11, to understand and reform our immigration laws, there has been a great deal of talk, but very little done—some 1,300 days now of high-flying political talk about the dramatic problem that we awakened to post-9/11, and that was that there were between 8 million to 12 million undocumented illegal people in our country—most of them here and working hard to help themselves and their families. But it was obvious there were a few here with the evilest intent in mind: to destroy our country and to destroy us, too.

While I accept the argument, as most do, that comprehensive immigration reform is critical, right now we have a critical situation in front of us as it relates to agriculture. Starting about 5 years ago, and before 9/11, American agriculture was attempting to get the Congress to look at their plight. The plight was obvious and simple—and criticize it if you will—but the reality was that 50 to 70 percent of their workforce was undocumented, and the law we had given them, as the Senator from Arizona has so clearly spoken to, was so cumbersome, costly, and so untimely—and the key to timeliness is when the crop is in the field and ripe, it has to come out or it rots—that American agriculture could not depend on it. The workforce who was seeking the work in American agriculture began to recognize it. If you will, the black market or the illegal processes began.

It should not be a surprise to any of us that when government stands in the way of commerce, stands in the way of an economy, usually people find a way around it. Tragically enough, it happened. But, by definition, it was an illegal way.

Last year, in our country, there were 2 months in which we were a net importer of food. This year, it is guesstimated it could be in as many as 6 months that we will be a net importer of food, and that will be the first time, in the history of American agriculture, that becomes the situation. So why we are here on the floor today debating a piece of a much broader overall immigration problem is because it is urgent, it is important we deal with it, and we deal with it now as thoughtfully and as thoroughly as we can. That is why I insisted that the Senate come to this issue.

I am glad my colleagues have come up with an alternative. I think the provisions in it are quickly thought up. They were criticizing my bill earlier because I offered a temporary visa. They offer a visa. They offered it for 3 years—3 years—as many as 9 years. What I am glad to hear said, for those who argue what we were doing was an amnesty issue, is that it is no longer viewed as that, that we recognize there is a legitimate need for an American agricultural workforce, and it is critically necessary we make it a legal workforce for the sake of our country, for the sake of our borders, and for the sake of American agriculture.

That is what this debate will be all about in the next several hours and tomorrow morning before we vote on this issue. Both sides have accepted a rather unusual procedure, Mr. President—a supermajority procedure. Why? Well, we are germane to this supplemental bill because of what the House did earlier with a Sensenbrenner amendment dealing with what is known as REAL ID. It dealt with immigration and, as a result of dealing with immigration in the House, we were legitimized to do so, in a germane way, in the Senate. We will do that.

At the same time, we all understand that in legislative procedures, on cloture 60 votes are required. We have agreed to do so. Tomorrow, we will vote—first on the Chambliss-Kyl amendment and then on the Craig amendment. It will require 60 votes to proceed. Whether we succeed or fail—and I think I can succeed—what is most important is that the American people are beginning to hear just a little bit about what they have deserved to hear for the last 1,300 days, since 9/11 awakened us all to the dysfunctional character and the lack of enforcement of immigration law that has been going on for well over two decades. It was so typical of a Congress that wanted to talk a lot about it but do very little about it.

The Senator from Arizona and I and the Senator from Georgia, without question, agree on the critical nature of American agriculture today. What we also agree on—symbolic by their presence on the floor today, debating the issue and offering an alternative—is that we cannot build the wall high enough along our southern border, we cannot dig its foundation deep enough to close that border off, that it requires good, clear, simple, understandable, functioning law, not unlike the old Bracero Program of the 1950s when we had a guest worker program, when we identified the worker with the work, and they came, they worked, and they went home.

Up until that time, illegal immigration was astronomically high. It dropped precipitously during that period of time when we were identifying and being able to work about 500,000 workers who were foreign national in American agriculture. It was a law that worked.

Then somehow, in the sixties, Congress got it all wrong again. Why? Because they thought they were protecting an American workforce. But what the AFL–CIO found out and why they support my legislation is that there are unique types of employment in this country with which the American workforce will not identify.

I am pleased to hear that the Chambliss-Kyl bill, along with mine, provides a first-hire American approach. We create a labor pool. The employer must first go there, but if that workforce is not available, they do not have to languish there because, in essence, they have a crop to harvest, and the crop is time sensitive. We understand all of that.

I will get to the detail of my bill over the course of the afternoon and tomorrow. This is a bill that for 5 years has been worked out between now over 509 organizations. It is interesting that the Farm Bureau supports the Kyl-Chambliss approach, but they do not oppose my approach. And last year they supported my approach. In other words, they are as frustrated as all of us are about this very real problem of immigration. First they are here and then they are there. What is most important is that we are here on the floor of the Senate this afternoon talking about an issue on which this Senate has been absent way too long.

What the Senator from Arizona, the Senator from Georgia, and I and others who will be on the floor—I see my prime cosponsor Senator KENNEDY is on the floor—believe is that this is an issue whose time is coming, and we believe for agriculture it is now because it is critical and it is necessary. We are learning at this moment that as much money as we throw at the border, as many Border Patrol men as we hire, if the law on the other side does not back them up, if the law on the other side does not create a reasonable pathway forward for a workforce to be legal and a workforce that is necessary in this country, then you cannot put them along the border unless they are arm length to arm length from the Gulf of Mexico to San Diego. And even then, those folks have to sleep.

The reality is, we have to get the law right, and the law has been wrong for a great long while. In the absence of a functioning, reasonable law, we have set up for our country a human disaster. Not only do we have an uncontrolled illegal population in our country, but because they have no rights, because of the way they are treated, it is not unusual in the course of a given year to see 200 or 300 lose their lives along the southern border of our country, to see our emergency rooms in Texas, Arizona, New Mexico, and California flooded, to see the very culture and the very character and foundation of our country at risk because we do not control process, we do not control immigration, and we do not do so in an upright, legal, and responsible way.

We are here. We are going to debate this for a time, and there will be much more debate tomorrow. We will have some key votes to see whether we proceed to deal with the bill that I call AgJOBS and that 509 organizations across the country that have worked with us for the last 5 to 6 years call AgJOBS. It is a major reform in the H–2A law. It is a simplification. It is a clearer understanding. It is a reasonable process: The blue card, if you will, or the green card that is acceptable, normal, and understandable and provided in a temporary and earned way, as my bill does, is simply a point in transition, and it ought to be viewed as that.

You will hear the rhetoric that it will allow millions of people to become legal. The Bureau of Labor Statistics, the Department of Labor, does not agree with that at all. The Department of Labor says there are about 500,000 who they think will responsibly and legitimately come forward, and of that, there may be dependence of around 200,000 that are already in this country because that workforce has been here 5 or 6 years or more, for that matter. So those numbers are reasonable and realistic, and that is a moment in time, a transition as we create a law and allow American agriculture to work their way into a functioning realistic H–2A program that is timely, that is sensitive, that meets their workforce needs, and recognizes the value and the production of American agriculture.

If we do not correct this law and correct it now, Americans have a choice because we already decided years ago, based on the character of the work, that most Americans would not do it. They had better jobs and alternative jobs. So American agriculture began to rely on a foreign workforce.

I say this most directly, and I mean it most sincerely. Either foreign workers will harvest America's agricultural produce for America's consumers or foreign workers will harvest agriculture in another country to be shipped to American consumers. Ask an American today what they want. They want a safe food supply. They

want an abundant food supply. They hope it would be reasonably priced. But most assuredly, they want to know that it is safe and it is reliable. The only way to guarantee that is that it be harvested in this country, as it has been from the beginning history of our great country. It was not for 2 months last year and possibly not for 6 months this year.

We have a choice to make. We either create a legal workforce, a workforce that is identifiable, or we keep stumbling down this road that no American wants us to go down, and that is to not control our borders, to not identify the foreign nationals within our borders, and to not have a reasonable, legal, and timely process. That is what the debate is all about.

I am pleased to see the other side, having been in opposition for so long, finally say, Whoa, I think maybe we ought to try to get this right. We disagree on process, we disagree on their approach, but there is similarity in many instances on reform of the H–2A program. We will work over the course of this afternoon, evening, and tomorrow to break all those differences out so all of our Senators can see these differences and sense the importance of what we debate.

There are many others who have come to the floor to discuss this legislation this afternoon. I yield the floor so the debate can proceed.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I rise in strong support of the proposal offered by Senators CRAIG and KENNEDY. I see Senator KENNEDY on the floor and Senator CRAIG on the floor. Their work is a testament to their persistence and the staying power of a handful of agricultural workers and employers who have been willing to set aside ideology and partisanship to hammer out a major overhaul of our law in this area.

Mr. KYL. Mr. President, will the Senator from Oregon yield for a procedural question?

Mr. WYDEN. Yes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I ask the Senator from Oregon, we have the Senator from Massachusetts here, and the Senator from Alabama has been here, as has the Senator from Georgia been on the floor when there was no one else present. I wonder if we can get some general agreement of going back and forth between proponents or opponents or proponents of the two separate bills so the Chair has some idea of order and the debate participants do as well.

I offer this as a suggestion. I have not proposed a unanimous consent request, but perhaps some of the staff can work this out while the Senator from Oregon is speaking.

Mr. CRAIG. Will the Senator yield?

Mr. KYL. Yes.

Mr. CRAIG. Because our debate time, as I understand it, is actually tomorrow, and I think we will go off and on this issue today, and because the chairman of the Appropriations Committee is on the floor managing the supplemental and may have other amendments he wants to deal with, I would hope we can rely on the Chair for moving us back and forth in a balanced way from side to side before we look at a structured way to proceed. I have difficulty with that.

Mr. SESSIONS. Mr. President, I join the Senator from Arizona in his request. I think it is important if we are to spend most of the afternoon on the issue. If we could work out an orderly arrangement, that would be good.

Mr. KYL. Let me propose this unanimous consent, Mr. President, if I may. The Senator from Oregon is speaking right now. I ask unanimous consent that after the Senator from Oregon is finished, so there would have been two Members speaking on behalf of the legislation of the Senator from Idaho, that at that point, the debate next go back and forth between proponents of the Chambliss-Kyl amendment and then back to Kennedy-Craig, and anyone offering an amendment can obviously seek to ask unanimous consent to lay the pending business aside, but in the meantime the debate on these two provisions that will both be voted upon tomorrow proceed with speakers on either side rotating.

The PRESIDING OFFICER. Is there objection? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see my friend from New Mexico who was here before I was here. Let him proceed.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I have two amendments to offer, and it will take a total of about 3 minutes. I do not expect votes on them today, of course, but I would like a chance to very briefly offer them, and then have them set aside, if I can do that after the Senator from Oregon concludes his remarks and before the rest of the debate continues.

Mr. KYL. That is accommodated in the unanimous consent request which I proposed.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Reserving the right to object, I welcome the opportunity to work this out. Can we perhaps get some time understanding as well? The Senator from Oregon mentioned he will probably need 15 minutes. Could we get some kind of understanding about the length of time? Generally we go from Republican to Democrat. Now we are looking at going from proponents to opponents. I do not mind that, but if we can limit this to 15 minutes each—I see we have a number of people—would that be agreeable? So we would go to Senator WYDEN, and because the Senator from Arizona has been so persuasive, we will hear two on his side, and maybe Senator BINGAMAN can be recognized after Senator WYDEN, and then two for the Senator's side, 15 minutes each, and then I be recognized.

Mr. CRAIG. Will the Senator yield?

Mr. KYL. I am happy to have my unanimous consent request amended along the lines of what the Senator from Massachusetts said.

Mr. CRAIG. It is clear anybody coming to the floor to offer amendments to the supplemental would have that right.

Mr. KYL. They could ask unanimous consent to intervene, and obviously it will be granted.

Mr. CRAIG. I thank the Senator.

Mr. KYL. Let me propound the unanimous consent request again, if I can. I ask unanimous consent that in 15-minute blocks of time Senator WYDEN proceed without any of this time coming off his, there then be two 15-minute blocks for the Senator from Alabama and the Senator from Georgia, followed by a 15-minute block for the Senator from Massachusetts, but in the meantime, Senator BINGAMAN be able to offer his amendments.

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

The Senator from Oregon.

Mr. WYDEN. Mr. President, a remarkable coalition of agricultural employers and farm workers has come together behind the Craig-Kennedy amendment. I commend them for all of their efforts. I simply wanted to spend a few minutes and talk about a bit of lineage behind this whole effort.

To some extent, this began on the afternoon of July 23, 1998, when I had the opportunity to join with my friend and colleague Senator Gordon Smith and we offered an amendment to overhaul this program. It was, in fact, entitled the AgJOBS amendment. It had the strong support of Senator CRAIG at that time. We received 68 votes for that legislation. I think it was an indication then, as we see today, how the system works for no one.

To a great extent, we see so many who feel we have lost control of our borders. The system surely does not work for the honest agricultural employer, and the vast majority certainly meet that test, and for many farm workers who work hard and contribute every single day. The system simply does not work for anyone. So what Senator SMITH and I tried to do that July day in 1998 was to begin to address the foundation of a sensible immigration policy based on the proposition that what we have been doing does not work for anybody. It does not work for our country.

We live under a contradiction every day with respect to immigration. We say we are against illegal immigration. One can hear that in every coffee shop in the United States. Then we look the other way so as to deal with agriculture or perhaps motels, hotels, restaurants, and a variety of other establishments. We have to resolve that contradiction. We ought to resolve it by making the kind of start the Craig-Kennedy legislation does by saying we

are going to put our focus on legal workers who are here in compliance with the law. That is what we sought to do that July day in 1998, requiring the growers to hire U.S. farmworkers first before they could seek alien workers. Then we took steps to try to ensure a measure of justice that would be required in our legislation for the migrant farmworkers by providing employment, housing, transportation, and other benefits, access to Head Start. I think Senator KENNEDY remembers this well from 1998. One would have thought Western civilization was going to end when that amendment offered by Oregon's two Senators got 68 votes in the Senate. I think it was an indication of how the animosity and fear that has surrounded this issue has enveloped the whole debate over the last few years, and that is why I commend Senator CRAIG and Senator KENNEDY for the thoughtful way they have worked since 1998 in order to build a coalition for this idea and to refine what the Senate voted for in 1998.

For example, in 1999, the National Council of Agricultural Employers, the employer group that helped start the process that led to the first AgJOBS bill of 1998, started reaching out directly to the Hispanic community representing agricultural workers, as well as churches and community groups. A dialog was begun then about how reform could benefit everyone.

In 2000, people from the agricultural employer community and those representing the farmworkers started talking more publicly about some of the issues that were particularly contentious. All of a sudden, there was an extended and thoughtful debate among people who were avowed enemies with respect to the topic of H–2A reform. Those people who had fought each other so bitterly began to come together and form a coalition that is behind the Craig-Kennedy amendment today.

In 1996, I formulated certain beliefs with respect to this issue that still hold true today. First, I believe willing and able American workers always should be given a chance to fulfill the needs of employers seeking agricultural labor. This was addressed in 1998 and it remains in the language before the Senate today. The amendment offered by Senator CRAIG and Senator KENNEDY requires employers seeking to use the H–2A program to first offer the job to any eligible U.S. worker who applies and who is equally or better qualified for the job, and then issue notice to local and State employment agencies, farmworkers organizations, and also through advertising.

We also said back then we wanted to have recommendations for a more straightforward, less cumbersome, less unwieldy process to address the shortage of primary foreign workers.

I commend Senator CRAIG and Senator KENNEDY because what we had been concerned about then—the need for simplicity and certainty—is now embodied in a number of aspects in this amendment. Employers are required to provide actual employment to the worker, a living wage and proof of that employment so the worker can move freely between jobs. The employee is required to show proof of legal temporary worker status in the United States to the employer before becoming employed. Each party shoulders the burden of ensuring their documentation is legal. That is the way we said it ought to be in 1998. That is the way it is in the Craig-Kennedy proposal.

Third, I have always maintained and still maintain that a farmer using the H–2A program should not be able to misuse it to displace U.S. agricultural workers or make U.S. workers worse off. The language before us today meets that test by ensuring that H–2A workers must be paid the same wage as the American worker. There is no incentive to seek a guest worker because there is no opportunity to indenture that worker by paying lower wages or not providing enough work.

Fourth, and perhaps most important, we said then and it is clear in this amendment as well that any program must not encourage the illegal immigration of workers. This bill addresses that by requiring agricultural workers to show they are legally in the United States in order to collect the benefits available under this program, such as housing, transportation, and the civil right to sue their employers for back wages or for wrongful dismissal.

So the goal of this legislation is to take out some of the uncertainty and the lack of predictability that has been in this program, and that uncertainty would be removed for both growers and workers.

Certainly my State has a great interest in agriculture. There are certainly billions of dollars of direct economic output in this sector and there is a need to enact H–2A programs for my State, where we feel we do a lot of things well, but what we do best is we grow things, and the need for enacting this program is as great today as it was in 1998. Both sides in this debate are going to continue to have their differences, and my guess is, as the Senator from Idaho knows, there are probably some residual and historical grudges. This Craig-Kennedy proposal shows that in a very contentious area that has been gridlocked in the Senate since a July date in 1998, we can still find a creative process that brings people together to solve mutual problems.

I hope my colleagues will support this historic effort. I look forward to working with Senators on both sides of the aisle on this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, what is the pending business? Is there an amendment pending?

The PRESIDING OFFICER. The pending amendment is the Chambliss amendment.

AMENDMENT NO. 483

Mr. BINGAMAN. Mr. President, I ask unanimous consent to set that aside so I can call up an amendment numbered 483.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 483.

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

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

The amendment is as follows:

(Purpose: To increase the appropriation to Federal courts by $5,000,000 to cover increased immigration-related filings in the southwestern United States)

On page 202, strike line 24, and insert ''$65,000,000, to remain available until September 30, 2006, of which $5,000,000 shall be made available for costs associated with increases in immigration-related filings in district courts near the southwestern border of the United States:''.

Mr. BINGAMAN. Mr. President, this amendment would provide an additional $5 million for the U.S. district courts along our southwest border with Mexico. Due to the increased immigration enforcement efforts along that border, southwest border courts have seen an extraordinary increase in immigration-related filings. This amendment would help border courts cover those expenses as we continue allocating resources to secure our Nation's borders.

Since 1995, immigration cases in the five southwest border districts—that is, the District of Arizona, District of New Mexico, Southern District of California, and the Southern and Western Districts of Texas—have grown approximately 828 percent. In 2003, overall immigration filings in all U.S. district courts surged 22 percent. In 2004, they jumped 11 percent. Of those cases, 69 percent of them came from these five districts I have listed.

In recent years, Congress has appropriated millions of dollars to hire additional Border Patrol officers. Obviously, the more Border Patrol officers you have, the more cases you have coming into the Federal district courts. We need to recognize this. We need to recognize the enormous impact this is having on our courts in this part of the country.

This amendment would add an additional $5 million to southwest border courts to the existing $60 million that is currently allocated under the supplemental to cover expenses related to recent Supreme Court decisions and the class action bill. The Administrative Office of the Courts should be free to allocate the funds as it deems necessary among the various courts. I hope my colleagues will support that amendment.

AMENDMENT NO. 417

At this point I ask that amendment be set aside, and I call up amendment

No. 417, the Grassley-Baucus amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for Mr. GRASSLEY, for himself, Mr. BAUCUS, and Mr. BINGAMAN, proposes an amendment numbered 417.

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

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

The amendment is as follows:

(Purpose: To provide emergency funding to the Office of the United States Trade Representative)

On page 200, between lines 13 and 14, insert the following:

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

For an additional amount for necessary expenses of the Office of the United States Trade Representative, $2,000,000, to remain available until expended: *Provided,* That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

Mr. BINGAMAN. Mr. President, this is an amendment I am offering on behalf of Senator GRASSLEY and Senator BAUCUS and myself. It would provide an additional $2 million in funding to the Office of the U.S. Trade Representative for the balance of the current fiscal year. The reasons for the amendment are straightforward. As many of us have heard, because of the lack of funding, the Office of the Trade Representative has been forced to eliminate a substantial portion of its foreign travel. It has placed a freeze on all its hiring. It is essentially no longer able to do the job we are requiring it to do.

In my opinion, the U.S. Trade Representative's Office is chronically underfunded and understaffed as it is. It is the principal agency in charge of negotiating and enforcing our trade agreements, and it certainly deserves our support, particularly in this time of unprecedented trade imbalances.

We talk a lot about holding our partners to their obligations in trade agreements. We talk about protecting U.S. jobs. Unfortunately, we have not dedicated a proper amount of resources to this effort.

This fiscal year, the Trade Representative's Office has faced unexpected additional constraints as a result of the WTO Ministerial, travel related to enforcement, the need for more staff to pursue congressionally mandated enforcement actions, and substantial fluctuations in the exchange rate, almost all of which fluctuations, I would point out, have been adverse to the dollar.

This amendment will provide the Trade Representative's Office with the emergency funding needed to get through this fiscal year. It is an investment well worth making. It will add to U.S. competitiveness and economic security. I hope my colleagues will support the amendment.

I ask that amendment be set aside and the earlier amendment by Senator CHAMBLISS be brought up again.

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

AMENDMENT NO. 483

Mr. BINGAMAN. I yield the floor.

Mr. SESSIONS. Mr. President, I do not see Senator CHAMBLISS, but I would like to enter into a discussion. We will be voting tomorrow on the AgJOBS bill and the Kyl-Chambliss bill, and maybe other bills—the Mikulski bill and who knows what else—in the next few days as we are debating the emergency supplemental. These are amendments filed to the emergency supplemental, legislation to provide funding for our magnificent soldiers who are ably serving our country in harm's way to carry out a national policy that we sent them to carry out.

We have been told that since the House of Representatives, when they passed their emergency supplemental, added several provisions to enhance our border security, recommendations that were in substance made by the 9/11 Commission to provide greater protection to our country against attacks by terrorists, such action by the House has opened the door to any immigration language and bill that we want to offer, that any Member may favor, to be added right onto a supplemental for our soldiers. There is a tremendous difference between those provisions, in my view. The Sensenbrenner language in the House bill is narrow, based on recommendations of the 9/11 Commission, related to our national defense and should have broad-based support. I hope it does. The President supports it. The AgJOBS bill, however, is controversial. It deals with a very large and complex subject that affects our economy and our legal system in a significant way. We absolutely should not be attempting to slip such legislation of such great importance, and on which our country is so divided, onto the emergency defense supplemental.

Let me speak frankly on the issue. There is no legislative or national consensus about how to fix our immigration system. I serve on the subcommittee on immigration of the Senate Judiciary Committee. We have been having a series of important hearings on this subject. Our chairman, Senator JOHN CORNYN, has been working very hard and providing sound leadership, but our subcommittee and the full Judiciary Committee and this Senate are nowhere near ready to develop a comprehensive immigration proposal. This is made clear when we see that a number of outstanding Senators who worked on immigration over the years—such as Senator KYL, Senator DIANNE FEINSTEIN, Senator SAXBY CHAMBLISS—are working on legislation, also.

Surely no one can say this AgJOBS bill that really kicked off this debate is not a colossally important piece of legislation. Every one of us in this body knows that immigration is a matter of great importance to our country and one that we must handle carefully and properly. After the complete failure of the 1986 amnesty effort, surely we know we must do better this time.

Let me state this clearly. I believe we can improve our laws regarding how people enter our country, how they work here, and how they become citizens in this country, and we should do so. We absolutely can do that. Many fine applicants are not being accepted, applicants who could enrich our Nation.

Further, as a prosecutor of 15 years, a Federal prosecutor for almost that long, without hesitation I want to say this: If we improve our fundamental immigration laws and policies, and if at the same time we work to create an effective enforcement system, then we can absolutely eliminate this unconscionable lawlessness that is now occurring in our country and improve immigration policies across the board, serving our national interests and being certainly more sensitive to the legitimate interests of those who would like to come here, live here, work here, or even become citizens.

Any such legislation we pass should, in addition, protect our national security. Of course, we need to keep an eye on our national security—Have we forgotten that? Surely not—and allow increased approval for technically advanced, educated and skilled persons and students, as well as farm labor.

More importantly, under no circumstances should we pass bad legislation that will further erode the rule of law, that will make the current situation worse and will violate important principles that are essential for an effective national immigration policy.

Some will say, Well, Jeff, it is time to do something, even if it is not perfect. My direct answer to that is it is past time to pass laws that improve the ability of our country to protect our security from those who would do us harm. That is our duty. But we simply are not ready to legislate comprehensively on the complex issue of immigration.

We have not come close to completing our hearings in the appropriate subcommittees and the Judiciary Committee.

More importantly still, time or not, we must not pass bad legislation. The Nation tried amnesty for farmworkers in 1986 and few would deny it was a failure. That legislation, the Immigration Reform and Control Act, established within it section 304. The Commission's duty was, after the act had been in effect for some time, to study its impact on the American farming industry. The Commission issued its report and found, in every area, farm labor problems had not been improved and as many as 70 percent of the applications for amnesty were fraudulent.

I wish that weren't so. I wish we could pass laws that people conjure up

which would solve the complex problems and it will all just work like we think it might. I am sure those people, in 1986, heard the exact same argument we are hearing today why this kind of legislation is so critical. They tried it. But they put in a commission to study it.

The Commission was clear. The Commission said:

In retrospect, the concept of worker specific and industry specific legislation was fundamentally flawed.

That is exactly what the AgJOBS bill is, industry and worker specific. Indeed, it is the same industry and the same workers—agriculture—that the 1986 sponsors said would be fixed by their bill. It was an amnesty to end all amnesty. That is what they said. Now we are at it again in the same way.

Later, in 1997, former Congresswoman Barbara Jordan, an African-American leader of national renown, was authorized, by a 1990 immigration law, to chair a commission. The Commission reported to President Clinton on the status of existing immigration law. The Jordan Commission found that the guest worker programs do not ''reduce unauthorized migration. To the contrary, research consistently shows that they tend to encourage and exacerbate illegal movements by setting up labor recruitment and family networks that persist long after the guest programs end.''

The Commission further concluded that what was needed was an immigration system that had integrity where laws were enforced, including employer sanctions. I will quote from their report. They stated:

Illegal immigration must be curtailed. This should be accomplished with more effective border controls, better internal apprehension mechanisms, and enhanced enforcement of employer sanctions. The U.S. Government should also develop a better employment eligibility and identification system, including a fraud-proof work authorization document for all persons legally authorized to work in the United States so that employer sanctions can more effectively deter the employment of unauthorized workers.

Our enforcement efforts remind me of the man who builds an 8-foot ladder to try to reach across a 10-foot chasm. While he may have been close, close doesn't count in such an event. He is heading for disaster.

We are not as far away as most people think from an effective enforcement mechanism. It is absolutely not hopeless for this country to gain control of its borders, especially with the new technology we have today—biometrics and that kind of thing. We are spending billions of dollars, but we are spending that money very unwisely. The solution to our immigration situation is to review the procedures by which people come to our country, and the procedures by which people become citizens, and to then steadfastly plan a method that will work to enforce those rules. Without that enforcement, no matter what changes we make in our current law, we will be right back here discussing Amnesty III for agricultural farmworkers before this decade is out. This is plainly obvious to anyone who would look at our current system.

By all means, this Nation should not, in response to this current failure, pass a bill like what has been offered which basically says our current system has failed and we intend to give up and do nothing to fix it. It says we have failed, our system is not working so we are just going to quit trying and let everybody stay in. The American people are not going to be happy if they learn that is what we are about here. They surely will learn about it sooner or later.

Polls show huge majorities, upwards of 80 percent, want a lawful system of immigration. Why are we resistant to that?

It has been amazing to me, anytime a piece of legislation is offered that might actually work to tighten up the loopholes we have, it is steadfastly opposed and seems never to become law.

I feel very strongly about this. If it is not amnesty, I don't know what amnesty is.

This bill will bestow legal status and a guaranteed pass to citizenship for over a million individuals, perhaps 3 million, perhaps even more.

The Commissioners who studied the last bill all agreed the number that actually obtained amnesty was far greater than anticipated.

In addition, it makes no provision whatsoever for commensurate improvement of law enforcement.

It hurts me, as somebody who spent most of my professional life trying to enforce laws passed by Congress, to see us undermine the ability of our system to actually work.

The passage of this legislation will be the equivalent of placing a neon sign on our border that says: Yes, we have laws but we welcome you to try to sneak into our country, and if you are successful, we will reward you, as we have done twice before, with permanent residency and a step onto citizenship.

Under this legislation, if a person has worked within 18 months, 575 hours or 100 workdays—and a workday is defined in the act as working 1 hour—then for 100 hours within 18 months, they are eligible to apply for a temporary resident status even though they are here plainly and utterly illegally. They do not have to go home and make another application; they simply apply for this. In addition, they become a temporary resident.

It then provides they can ask for permanent resident status and that the Secretary of Homeland Security shall grant them this permanent resident status if they work 2,000 hours in a 6-year period. That is about 1 year of work period. Then they apply for a permanent resident status. In 5 years, if they have not been convicted of a felony or have not been convicted of three misdemeanors, the Secretary shall confer citizenship on them if they apply.

If they become a permanent resident citizen, they can call for their family, who may be out of the country. A family who never had any thought to come to this country is allowed to come in free. All of them are put on a guaranteed track for citizenship.

Indeed, if they have already left the country not intending to return, but did work 575 hours in 18 months before that period, or if they are willing to say they did—true or not—they get to come back in and bring their families with them. Maybe a person here never intended to bring their family, but faced with this offer, they bring them in.

I am not sure we know how broad this bill is, how dangerous this language is.

I have a host of specific complaints about the provisions within the statute. I will talk about them later today or tomorrow.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I concur in about everything my friend from Alabama has said. Initially, he made a comment relative to debating immigration law on a Defense supplemental bill where we are trying to provide funds for our men and women who are serving so bravely overseas today. I concur in that.

I had hoped we would have an expansive debate on this very sensitive and complicated issue. I know my friend, the Senator from Idaho, feels exactly as I do on this, but unfortunately we have been dictated to by the rules of the Senate relative to this issue. That is why we have both of these amendments up for discussion today.

The Senator from Alabama is exactly right. He is also right on one other thing. There are two amendments we are debating, AgJOBS, filed by the Senator from Idaho and Senator KENNEDY from Massachusetts, and the Chambliss-Kyl amendment. Both of these amendments recognize, as the Senator from Alabama said, we have a problem. We have a problem in the agriculture community relative to providing our farmers all across America a stable, secure, and lawful pool from which to choose for their labor needs.

We can argue over how many hundreds of thousands or how many millions of individuals are illegally in this country today working on our farms. The Senator from Idaho said the Department of Labor says there will only be a few hundred thousand who will try to take advantage of this. I don't think that is right. I don't have a lot of faith in the numbers coming out of some of the studies that have been done.

For example, there was a study by GAO a couple of years ago which said there were some 600,000 farmworkers in the United States today who are here illegally. In my State, there are hundreds of thousands of illegal aliens who are working in agriculture as well as working in other industries today.

Those who are working in other industries probably started out working in agriculture. That is 1 out of 50 States. Our number is dwarfed by Texas, New Mexico, Arizona, California, by those States that are on the border with our friends to the South in Mexico, where thousands of illegal aliens are crossing the border every day.

However, we do recognize there is a certain number—and it is not material as to what that number is—but the fact is we agree there are hundreds of thousands or millions of folks here illegally.

The basic difference between the Senator CRAIG and Senator KENNEDY AgJOBS amendment and the Chambliss-Kyl amendment is this: Which direction do we want to go with regard to identifying those folks here illegally? Do we want to reward those folks here illegally, as the AgJOBS amendment proposes to do, or do we want to identify those people and those who are here illegally who are making a valuable contribution to the economy of the United States and who, most significantly, are not displacing American workers—and I emphasize that—and who have not broken the law in this country? Do we want to make an accommodation for those folks so they can continue to contribute to the economy of the United States by virtue of working in the agriculture community?

We both agree we ought to regulate these folks. The difference is the Craig-Kennedy AgJOBS amendment gives those individuals who are in this country illegally a direct path to citizenship. The Chambliss-Kyl amendment recognizes those folks are here illegally and it says to them, we are going to grant you a temporary status to remain here if you are not displacing American workers, if you are law abiding, and if your employer makes an attestation that he needs you—whether it is for a short period of time, as the H–2A reform portion of our amendment calls for, or whether it is the longer term, or the blue card application. Unlike in the AgJOBS amendment where the illegal alien can make the application, in our amendment the application has to be made by the employer who does have to say he needs that individual in his employ.

Another significant difference between these two amendments is this: Under the AgJOBS bill it is pretty easy in the scheme of things to become legal—not maybe an American citizen off the bat, but to position yourself to be placed in line ahead of other folks who are going through the normal course as set forth in our Constitution today to become a citizen, for these folks to make that type of application.

Here is why. The AgJOBS bill says if you are an illegal alien, you shall be given status as one lawfully admitted for temporary residence if the illegal alien has worked 575 hours, or 100 workdays, whichever is less, during an 18-month period ending on December 31, 2004. Mr. President, 575 hours is 14.3 weeks of labor if they work 40 hours, or 71.8 days, or approximately 3½ months. An alien can get immigration status after working only 3½ months of full-time employment.

Under Senate bill 359, section 2, paragraph 7, a workday means a day in which an individual has worked as little as 1 hour. So 100 workdays can amount to, literally, 1 hour per day for 100 straight days which would amount to 2½ weeks. That may not be the practicality of this, but in actuality, that is what the bill says.

Coming from a very heavy agriculture area, as I do, these people for the most part who are here working in agriculture are here for the reason they want to improve the quality of life for themselves as well as their families. They are basically law-abiding people who are simply hard workers and are here because they have that opportunity to better themselves in this country versus their native country.

But still, are we going to recognize those folks for what they are—and that is an illegal alien—or are we going to grant them this legal status after being here for 3½ months?

I do not think the American people ever intended for the Constitution of the United States, and for us operating under that Constitution, to grant legal status to anybody who breaks the law, to come into this country, and who may break the law not once, not twice, but three times during that 3½-month period under the AgJOBS bill, as they can do, and get legal status. I cannot conceive that America wants us to enact that type of legislation.

A basic difference between the AgJOBS bill and the Chambliss-Kyl amendment relative to those issues is we do not put anybody on a path to legal status. We grant them temporary status under the H–2A bill. If the farmer comes in and says, ''I need 100 workers for 90 days to work on my farm, and here is what they are going to do,'' we will have that application processed in a streamlined fashion, compared to the way the application would have to be processed today, and those workers can come in, and whether they are cutting lettuce or cutting cabbage or picking cucumbers, they will be able to come in for that 100 days, and at the end of that 100 days, they will return to their native land.

If there are other operations, other farming operations, whether it is a landscaper or somebody in the nursery business, that need individuals 12 months out of the year, they will have the opportunity under our bill to apply for the blue card—again, a temporary status. It must be applied for by the employer, not the illegal alien, as you can do under the AgJOBS bill. The employer must make the application for those individuals. No preferential status toward citizenship is given.

They can have that blue card for 3 years, and reapply on two separate occasions following that first application. Technically, they could stay here for 9 years, if they continue to be law abiding and if their employer makes the proper attestation that says he needs them, that they have been important to the economy of this country, and they are not displacing American workers. It is significantly different from actually the legal status given after 3½ months under the AgJOBS bill.

Where does the AgJOBS bill move this individual relative to the pathway to citizenship? What current immigration law says is for somebody who is here legally, if they work for 2,060 hours under the AgJOBS bill, at the end of that 1 year, which is approximately 2,060 hours of work, they can apply for a green card, and they are going to be given preferential treatment in getting that green card.

What current immigration law says is anybody who has maintained a green card for 5 years can apply for citizenship. That is the pathway to citizenship that is being granted to folks who are in this country illegally today, who can have broken the law in this country today, not once, not twice, but three times, and still be looked at as somebody who is given preferential treatment over those individuals who are outside of this country who want to become citizens of the United States, who want to come here legally and do it the right way.

It simply is not fair. It is not equitable. I cannot believe the American people want to see us enact a law that will reward those individuals who have come into this country illegally in that way.

Lastly, let me mention one other point that is critically different between the AgJOBS bill and the Chambliss-Kyl amendment; and that is the issue relative to control of the border. The AgJOBS bill is basically silent when it comes to control of the border. But what it does do is it says if you have previously worked in the United States, and you are now back in your home country, you can come and make application for the adjusted status by saying you did work 575 hours within a certain period of time and, therefore, you should be given legal status in this country. And that will happen.

The difference in our provisions relative to control of the border is we mandate that the Department of Homeland Security come back to Congress within 6 months after the effective date of this legislation and report to us on a plan they are going to put in place to control our borders. Because, let me tell you, I don't care what bill we pass, which of these amendments we pass, or any future bill we may pass relative to the immigration laws of this country, if we do not control our borders, we have not made one positive step in the right direction.

We simply must figure out a way to control our borders. We think rather than us legislating a way in which that

be done, those folks who deal with the issue every day, those folks at the Department of Homeland Security, are better suited to determine how we can come up with a plan to control the border. We mandate that they come back to us with that plan to control the border within 6 months after the effective date of this legislation.

Mr. President, I would simply say in closing, we agree, No. 1, there is a problem. I commend Senator CRAIG and Senator KENNEDY for continuing to move this ball down the field, as they have done. While I do not necessarily agree that the Iraq supplemental is the right place to do it, we are here today. But it simply is a matter of in which direction we are going to go.

Is it going to be looking at folks who are in this country illegally and rewarding them, rewarding them with a path to citizenship? Or is it going to be in the direction of saying, OK, we know you are here illegally, but if you are here and are a law-abiding individual in this country, and you are making a contribution to this society, and you are not displacing an American worker, then we are going to give you a temporary status? We are not going to say you are here illegally. We are going to say you are here legally, temporarily.

That is a critical difference. We are going to make sure our farmers and our ranchers have the workforce necessary to carry out the job they must do of feeding Americans as well as other folks around the world, but we are simply not going to use that tool to put people who are here illegally on a pathway to one of the most precious rights every American citizen has, and that is citizenship of this country.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 15 minutes.

Mr. KENNEDY. If the Chair would be good enough to notify me when I have 1 minute remaining, please.

The PRESIDING OFFICER. The Chair will be happy to.

Mr. KENNEDY. Mr. President, it is a privilege to join with Senator CRAIG in offering the Agricultural Jobs, Opportunity, Benefits, and Security amendment.

America has a proud tradition as a nation of immigrants and a nation of laws, but our current immigration laws have failed us. Much of the Nation's economy today depends on the hard work and the many contributions of immigrants. The agricultural industry would grind to a halt without immigrant farmworkers. Yet the overwhelming majority of these workers are undocumented and are, therefore, easily exploited by unscrupulous employers.

Our AgJOBS bill corrects these festering problems. It gives farmworkers and their families the dignity and justice they deserve, and it gives agricultural employers a legal workforce.

Impressive work has been done by many grassroots organizations to make AgJOBS a reality. They have demonstrated true statesmanship by putting aside strongly held past differences to work together for the common good. We have our own responsibility to join in a similar way to approve this needed reform that is years overdue.

I commend Senator CRAIG and Congressmen BERMAN and CANNON for their leadership. I urge my colleagues to wholeheartedly endorse the AgJOBS bill.

Our bill reflects a far-reaching and welcome agreement between the United Farm Workers and the agricultural industry to meet this urgent need, and Congress should make the most of this unique opportunity for progress.

Our bill has strong support from business and labor, civic and faith-based organizations, liberals and conservatives, trade associations and immigrant rights groups. More than 500 organizations across the country support it.

AgJOBS is a bipartisan compromise reached after years of negotiations. Both farmworkers and growers have made concessions to reach this agreement, but each side has obtained important benefits.

In contrast, opponents offer a one-sided proposal that has failed to win the broad support AgJOBS has received. I urge my colleagues to oppose it. It vastly favors employers at the expense of farmworkers. It makes harsh revisions to the current agricultural guest worker program and creates a new blue card program for undocumented workers without a path to permanent residence, and without any meaningful governmental oversight to prevent labor abuses.

Agricultural employers would have the freedom to avoid hiring U.S. workers, displace U.S. workers already on the job, and force both U.S. workers and guest workers to accept low wages. They could do all this by claiming they can't find any U.S. workers. Even when the few labor protections are violated, workers would have no meaningful ability to enforce their legal rights.

This program would return us to the dark and shameful era of the Bracero Program where abuses were rampant and widely tolerated. That is unacceptable. We must learn from our mistakes and not repeat them.

The Chambliss amendment also ignores the needs of many growers and farmworkers. It offers no solution to the basic problem faced by agricultural employers—the problem that an overwhelming majority of the workers are undocumented. By offering no path to permanent residence for these undocumented workers, none of the guest workers, no matter how long they have worked, will ever be able to earn their permanent status.

Perhaps more troubling is the amendment's repeal of the long-standing adverse effect wage rate under the current program. This wage rate was created during the Bracero Program as a necessary program against the depression in wages caused by guest worker programs. The Chambliss proposal would replace it with a prevailing wage standard, substantially lower than the adverse effect wage rate. It would be based on the employer's own survey of prevailing wages rather than the Labor Department's survey. Farmworkers, who are already the lowest paid workers in the United States, would see their wages drop even lower. In contrast, the AgJOBS bill preserves the adverse effect wage rate while recommendations are made to Congress to resolve these long-contested pay issues.

The Chambliss amendment also eliminates the key provision that gives U.S. workers a job preference by employers who request guest workers. It would end the longstanding 50 percent rule which requires employers to hire qualified U.S. workers who applied during the first half of the season. Studies have shown that this rule is a valid protection.

In addition, the Chambliss amendment would end what they call positive recruitment—the obligation of employers to look for U.S. workers outside of the government job service which currently provides farmworkers with agricultural jobs. This proposal creates a new guest worker program for the undocumented that would offer them visas that would be valid only for 3 years and renewable for up to 6 additional years. They would have no opportunity to earn a green card no matter how many years they worked in the United States. In fact, they would actually lose their status if they merely filed an application to become a permanent resident.

Senator CHAMBLISS believes that undocumented farmworkers will come out of the shadows and sign up for such a temporary worker program, but they are highly unlikely to do so. The vast majority will be deported after their temporary status expires. Registering as the first step towards deportation is unfair, and it just won't work.

In contrast, the AgJOBS bill offers farmworkers a genuine earned adjustment program that will put these workers and their families on a path to permanent residence. Hard-working, law-abiding farmworkers will be able to come out of the shadows. The Chambliss amendment is far less satisfactory than the AgJOBS proposal, and I urge my colleagues to oppose it.

Opponents of the AgJOBS bill claim that we are rushing this bill through Congress without full and careful consideration. This claim is without merit. Since 1998, the Immigration Subcommittee has held three hearings that have fully examined our agricultural workforce problems and the need to reform our immigration laws. Last year, we considered the issue once more. Legislation to address this problem has been introduced by both Republicans and Democrats in every Congress since 1996.

In September 2000, a breakthrough occurred, and both sides agreed to support compromise legislation that won broad bipartisan congressional support. Unfortunately, attempts to enact it were blocked in the lameduck session that year. The election of President Bush in 2000 changed the dynamics of the agreement, and the compromise fell apart.

A compromise was finally reached in September 2003 which led Senator CRAIG and me to introduce the AgJOBS bill. Last Congress, we had, as Senator CRAIG has pointed out, 63 Senate cosponsors, nearly evenly divided between Democrats and Republicans. Despite such strong bipartisan support, the leadership last year blocked our attempt to obtain a vote on this legislation. This is the second Congress in which Senator CRAIG and I have introduced the AgJOBS bill. Congress has had extensive discussions of this legislation in the past, and it is long past time for us to act.

Opponents of our amendment have offered no workable solutions. We cannot be complacent any longer. It is time for a new approach.

The American people want commonsense solutions to real problems such as immigration. They want neither open borders nor closed borders. They want smart borders. They are neither anti-immigrant nor anti-enforcement. Instead, they are anti-disorder and anti-hypocrisy. They want the Federal Government to get its act together, to set rules that are realistic and fair, and to follow through and enforce these realistic rules effectively and efficiently.

AgJOBS meets these goals. It addresses our national security needs, reflects current economic realities, and respects America's immigrant heritage.

The status quo is untenable. In the last 10 years, the U.S. Government has spent more than $20 billion to enforce our immigration laws. We have tripled the number of border security agents, improved surveillance technology, installed other controls to strengthen border enforcement, especially at the southwest border. None of these efforts have been adequate. Illegal immigration continues.

The proof is in the numbers. Between 1990 and 2000, the number of undocumented immigrants doubled from 3.5 million to 7 million. Today that number is nearly 11 million, with an average annual growth of almost 500,000. Those already here are not leaving, and new immigrants keep coming in. Massive deportations are unrealistic as a policy, impractical to carry out, and unacceptable to businesses that rely heavily on their labor.

Obviously, we must control our borders and enforce our laws, but we first need realistic immigration laws that we can actually enforce. The AgJOBS bill is a significant step. By bringing these illegal workers out of the shadows, we will enable law enforcement to focus its efforts on terrorists and violent criminals. We will reduce the chaotic, illegal, all too deadly traffic of immigrants at our borders by providing safe opportunities for farmworkers and their families to enter and leave the country.

The AgJOBS bill enhances our national security and makes our communities safer. It brings the undocumented farmworkers and their families out of the shadows and enables them to pass through security checkpoints. It shrinks the pool of law enforcement targets, enables our offices to train their sights more effectively on the terrorists and the criminals. The undocumented farmworkers eligible for this program will undergo rigorous security checks as they apply for legal status. Future temporary workers will be carefully screened to meet security concerns.

The AgJOBS amendment provides a fair and reasonable way for undocumented agricultural workers to earn legal status. It reforms the current visa program so that agricultural employers unable to hire American workers can hire needed foreign workers. Both of these components are critical. They serve as the cornerstone for comprehensive immigration reform of the agricultural sector.

Undocumented farmworkers are clearly vulnerable to abuse by unscrupulous labor contractors and growers. They are less likely than U.S. workers to complain about low wages, poor working conditions, or other labor law violations. Their illegal status deprives them of bargaining power and depresses the wages of all farmworkers. These workers are already among the lowest paid of all workers in America. According to the most recent findings of the national agricultural workers survey issued last month, their average individual income is between $10,000 and $12,000 a year. The average annual family income is $15,000 to $17,000.

Thirty percent of their households live below the poverty line. Only half of them own a car and even fewer own a home or even a trailer. By legalizing these farmworkers, the threat of deportation is removed. They will be on equal footing with U.S. workers and the end result will be higher wages, better working conditions, and upward job mobility for all workers.

Opponents of reform continually mislabel any initiative they oppose as ''amnesty'' in a desperate attempt to stop any significant reform. Instead of proposing ways to fix our current broken system, they are calling for more of the same—increased enforcement of broken laws. However, enforcing a dysfunctional system only leads to greater dysfunction.

The AgJOBS bill is not an amnesty bill. The program requires farmworkers to earn legal status. They must demonstrate not only contributions but also a substantial future work commitment before they earn the right to remain in our country.

First, they will receive temporary resident status, based on their past work experience. They must have worked for at least 100 work days in agriculture by December 31, 2004. To earn permanent residence, they must fulfill a prospective work requirement. They must work at least 360 days in agriculture during a six-year period. At least 240 of those 360 work days must occur during the first 3 years. Temporary residents who fail to fulfill the prospective agricultural work requirement will be dropped from the program and required to leave the country.

It's not amnesty if you have to earn it. AgJOBS offers farm workers a fair deal: if they are willing to work hard for us, then we're willing to do something fair for them. It's the only realistic solution.

Contrary to statements made by its critics, AgJOBS does not provide a direct path to citizenship. Farm workers would first earn temporary residence if they provide evidence of past work in agriculture. The next step would be permanent residence, but only after they have completed thousands of hours of backbreaking work in agriculture—a process that could take up to 6 years. Once they earn permanent residence, these farm workers would have to wait another 5 years to be able to apply for citizenship. At that point, they would have to pass an English and civics exam, and go through extensive backgrounds checks. This process is long and arduous, as it should be. There is nothing direct about it.

To be eligible for legal status, applicants must be persons of good moral character and present no criminal or national security problems. Whether they are applying here or at U.S. consulates abroad, all applicants will be required to undergo rigorous security clearances. Like all applicants for adjustment of status, their names and birth dates must be checked against criminal and terrorist databases operated by the Department of Homeland Security, the FBI, the State Department, and the CIA. Applicants' fingerprints would be sent to the FBI for a criminal background check, which includes comparing the applicants' fingerprints with all arrest records in the FBI's database.

Contrary to arguments made by detractors of AgJOBS, terrorists will not be able to exploit this program to obtain legal status. Anyone with any ties to terrorist activity is ineligible for legal status under our current immigration laws, and would be ineligible under the AgJOBS bill. Our proposal has no loopholes for terrorists.

Opponents of AgJOBS claim that this bill is soft on criminals. Wrong again. AgJOBS has the toughest provisions against those who commit crimes—tougher than current immigration law. Convictions for most crimes will make them ineligible to obtain a green card. Generally, these convictions include violent crimes, drug crimes, theft, and domestic violence. AgJOBS goes even further. Applicants can be denied legal status if they commit a felony or three

misdemeanors. It doesn't matter whether the misdemeanors involve minor offenses—three misdemeanors and you are out, no matter how minor the misdemeanors. In addition, anyone convicted of a single misdemeanor who served a sentence of 6 months or more would also be ineligible. These rules are additional requirements that do not apply to other immigrants and they cannot be waived by DHS.

There are those who would prefer to disqualify a farm worker who commits even a single minor misdemeanor, with no jail time. But that goes too far. In some States, it's a misdemeanor to put trash from your home into a roadside trash can. It's a misdemeanor to park a house trailer in a roadside park, or have an unleashed dog in your car on a State highway, or go fishing without a license.

If we're serious about this proposal, minor offenses like these shouldn't have such harsh consequences. We'd be severely punishing hard-working men and women for minor mistakes, and tearing these immigrant families apart.

It's hard to imagine any public purpose that would be served by such a severe punishment. But it's easy to imagine all the heart-wrenching stories and nightmares created by this proposal for people caught by its provisions. Many of these farm workers have lived in America with their families for many years. They've established strong ties to their communities, paid their taxes, and contributed to our economy. They deserve better than a punishment out of all proportion to their offense.

Opponents of AgJOBS also claim that it will be a magnet for further illegal immigration. Once again, they are wrong. To be eligible for the earned adjustment program, farm workers must establish that they worked in agriculture in the past. Farm workers must have entered the United States prior to October, 2004. Otherwise, they are not eligible. The magnet argument is false. New entrants who have not worked in agriculture won't qualify for this program.

Hard-working migrant farm workers are essential to the success of American agriculture. We need an honest agriculture policy that recognizes the contributions of these men and women, and respects and rewards their work.

Our bill will modify the current temporary foreign agricultural worker program, while preserving and enhancing key labor protections. It strikes a fair balance. Anything else would undermine the jobs, wages, and working conditions of U.S. workers.

For many employers, the current program is a bureaucratic nightmare. Few of them use the program, because it is so complicated, lengthy, uncertain, and expensive. Only 40,000–50,000 guest workers are admitted each year—barely 2 to 3 percent of the estimated total agricultural work force.

To deal with these problems, the bill streamlines the H–2A program's application process by making it a ''labor attestation'' program similar to the H–1B program, rather than the current ''labor certification'' program. This change will reduce paperwork for employers and accelerate processing.

Employers seeking temporary workers will file an application with the Secretary of Labor containing assurances that they will comply with the program's obligations. The application will be accompanied by a job offer that the local job service office will post on an electronic job registry at least 28 days before the job begins. In addition, the employer must post the position at the work site, notify the collective bargaining representative if one exists, make reasonable efforts to contact past employees, and advertise the position in newspapers read by farm workers.

Longstanding worker protections will continue in force. For example, the ''three-fourths minimum work guarantee'' will remain in effect. Employers will be required to guarantee work for at least three quarters of the employment period or pay compensation for any shortfall. The ''50% rule'' will also continue. Qualified U.S. workers would be hired as long as they apply during the first half of the season. No position could be filled by an H–2A worker that was vacant because of a strike or labor dispute. Employers will continue to reimburse workers for transportation costs and provide workers' compensation insurance coverage. Employers will be prohibited from discriminating in favor of temporary workers.

The bill will modify some current requirements in important ways. Employers must provide housing at no cost, or a monetary housing allowance in which the State governor certifies that sufficient farm worker housing is available. Employers will also be required to pay at least the highest of the State or Federal minimum wage, the local ''prevailing wage'' for the particular job, or an ''adverse effect'' wage rate.

For many years, the adverse effect wage rate has been vigorously debated, with most farm worker advocates arguing that the rate is too low, and most growers complaining that it is too high. The bill will freeze adverse effect wage rates for three years at the 2003 level, while studies and recommendations are made to Congress by the GAO and a special commission of experts. If Congress fails to enact an adverse effect wage rate formula within 3 years, this wage rate will be adjusted in 2006, and at the beginning of each year thereafter, based on the change in the consumer price index.

The Secretary of Labor will establish an administrative complaint process to investigate and resolve complaints alleging violations under the H–2A program. Violators will be required to pay back wages, and can also be given civil money penalties and be barred from the program.

In addition, the bill provides a significant new protection for H–2A workers—a private right of action in Federal court. Currently, these workers lack this right, and can seek redress in State courts only under State contract law. Such workers are also excluded from the Migrant and Seasonal Agricultural Worker Protection Act, which provides U.S. workers with protections and remedies in Federal court. Although the exclusion continues, our bill will permit workers to file a Federal lawsuit to enforce their wages, housing benefits, transportation cost reimbursements, minimum-work guarantee, motor vehicle safety protections, and other terms under their job offer.

Our bill will also unify families. When temporary residence is granted, a farm worker's spouse and minor children will be able to remain legally in the United States, but they will not be authorized to work. When the worker becomes a permanent resident, the spouse and minor children will also gain such status.

Mr. President, I have a letter from the AFL–CIO that calls AgJOBS a recent legislative compromise between farmworker advocates and agricultural employers. I ask unanimous consent that this letter be printed in the RECORD.

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

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, April 18, 2005.

DEAR SENATOR: On behalf of the AFL–CIO I urge you to support cloture on and passage of an amendment to the FY 2005 Supplemental Appropriations bill offered by Senators Craig and Kennedy—the Agricultural Job Opportunity, Benefits and Security Act (AgJOBS). I also strongly urge you to oppose an amendment offered by Senators Chambliss and Kyl as a substitute to AgJOBS. This amendment has inadequate worker protections and must be defeated.

The AgJOBS bill is a reasoned legislative compromise between farm worker advocates and agricultural employers. AgJOBS enjoys strong bipartisan support and would provide an avenue for 500,000 undocumented farm workers to qualify for an earned adjustment program that has a path to permanent residency. AgJOBS would both streamline the current H–2A agricultural guest-worker program and provide additional legal protections for migrant workers who hold H–2A visas. AgJOBS addresses both the growing concern over the high number of undocumented farm workers and the need for adjustments to the H–2A program so that we do not confront a similar crisis in the future. The Kennedy-Craig AgJOBS amendment is necessary immigration reform that will protect the rights and economic well-being of both immigrant and U.S. workers.

The Chambliss-Kyl proposal would radically change the H–2A program—stripping it of all labor protections and government oversight. This amendment would create a new year-round guest worker program with no meaningful labor protections and no role for the Department of Labor to enforce housing, pay, or other essential worker protections. The Chambliss-Kyl proposal would tie workers to particular employers and require

them to leave the country if their jobs ended and no other employer petitioned for a visa for them within 60 days. It would allow employers to bring in a large numbers of vulnerable guest workers to fill year-round jobs for up to nine years without the ability to be united with their family members.

Also troubling is that the Chambliss-Kyl amendment would broaden the definition of seasonal agricultural workers to include ''related industries,'' which could include landscaping and food processing. Currently, the use of guest workers in these industries is capped and subject to additional labor market tests. The H–2A program is not subject to a cap. This further jeopardizes essential labor protections for a broader segment of the U.S. workforce. The Chambliss-Kyl proposal is bad for both U.S. and immigrant workers, bad for employers who want to employ a stable workforce, and it is a dangerous precedent in immigration and labor policy.

Sincerely,

WILLIAM SAMUEL,
Director, Department of Legislation.

Mr. KENNEDY. Mr. President, this mentions:

The Chambliss-Kyl proposal would radically change the H–2A program, stripping it of all labor protections and Government oversight. This amendment would create a new year-round guest worker program with no meaningful labor protections and no role for the Department of Labor to enforce housing, pay, or other essential worker protections. The Chambliss-Kyl proposal would tie workers to particular employers and require them to leave the country if their jobs ended and no other employer petitioned for a visa for them within 60 days.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 464

(Purpose: To express the sense of the Senate on future requests for funding for military operations in Afghanistan and Iraq)

Mr. BYRD. Mr. President, from the moment our military first attacked Osama bin Laden's hideouts in Afghanistan, through the time that our first soldiers set foot inside Iraq, continuing right up until the present day, the war in Afghanistan and the war in Iraq have been entirely funded by what the American people might call a series of stopgap spending measures. These measures, which are called emergency supplemental appropriation bills in the parlance of our Nation's capitol, take the form of last-minute requests by the White House for Congress to approve tens of billions of dollars on an accelerated timetable.

From September 11, 2001, until today, Congress has approved $201 billion in these appropriations bills, the great majority of which the President has applied to the wars in Afghanistan and Iraq. If this bill on the Senate floor is approved, it will add another $79.3 billion to that staggering total.

With the cost of the two wars approaching $280 billion—that is a lot of money; that is your money, Mr. and Mrs. American Citizen—the American people are beginning to ask how much more will these two wars cost our country? The Congressional Budget Office estimated, in February 2005, the cost of the wars in Iraq and Afghanistan will cost the American people $458 billion over the next 10 years. The $74.4 billion in military spending contained in this supplemental appropriations bill is but a small downpayment on that staggering sum.

How accurate is this estimate of nearly half a trillion dollars more in war costs? How accurate is it? Amazingly, the administration has flatout refused to provide any estimates for the cost of the war in its annual budget request. That means, then, under the administration's budget policies, our troops are forced to continue to rely on the stopgap spending measures that are known as emergency supplemental appropriations bills.

I know the terms ''supplemental request'' or ''emergency appropriations'' mean almost nothing to the average American. But each time the White House sends a supplemental request to Congress for more funds that have never appeared in the President's budget, it reminds me of the way so many Americans pull a credit card out of their wallet when faced with unexpected costs.

Like a credit card, emergency supplemental appropriations requests can be responsibly used to cover costs that could not have been foreseen. But most Americans know, if someone starts using a credit card for everyday expenses, watch out, because that person is on the path to financial ruin. Mr. President, I have never had a credit card in my life. I don't use one. My wife doesn't use one. Using that little piece of plastic means avoiding the tough choices and tradeoffs that are necessary for fiscal responsibility, while reckless spending and increasing interest payments cause a family's debt to spiral out of control. That, in a nutshell, is exactly what is happening in Washington, DC. Just like the slick advertising slogan for credit cards, the administration's repeated requests for supplemental appropriations for the war exemplify the phrase ''buy now, pay later.''

Over the last 3½ years, at a time when the Government is swimming in red ink, the White House has charged an additional $280 billion—that is right, $280 billion—on the national credit card, without proposing a single dime of that spending in its annual budget proposal; not one thin dime is seen or shown in the administration's annual budget proposal. This is a reckless course the administration has plotted. It is fiscal irresponsibility at the highest level. This ''take it as it comes'' approach to paying for the cost of the war in Iraq ignores sound budgetary principles, and it is a grave disservice to our troops who are serving in Iraq.

By separating the regular budget of the Defense Department and other Federal agencies from the wartime costs of military operations, the White House has effectively denied Congress the ability to get the whole picture of the needs of our troops and the other needs of our Nation, such as education, highways, and veterans medical care. Instead, Congress receives only piecemeal information about, on the one hand, what funds are required to fight the war—this unnecessary war, I say, in Iraq—and on the other, what funds are required for the regular operations of the Defense Department and other Federal agencies.

This is a misguided approach, and the net effect of this misguided approach is a thoroughly disjointed and discombobulated Federal budget. This hand-me-down process does not serve our troops well.

A unified, coherent budget for our military would allow Congress and the administration, as well as the American people, to focus on the future to evaluate what our troops might need to fight two wars—the war in Afghanistan and the war in Iraq—in the next 6, 12, or 18 months.

I am fully supportive of the war in Afghanistan because in that case our country was attacked, our country was invaded by an enemy. We fought back. I fully supported President Bush in that war, and I do today. I support the troops in both wars, but I do not support the policy that sent our troops into Iraq.

Instead of looking forward, however, the abuse of the supplemental appropriations process means the Congress and the administration are constantly—constantly—looking backward over our shoulder to fix the problems that might have been addressed had the cost of the wars been included in the President's budget.

Congress has had to add money to prior supplementals to buy more body armor, to buy more ammunition, to buy more armored humvees. All of these costs should have been included in earlier administration regular unified budget requests for the entire Federal Government.

What is more, this disjointed manner of paying for the wars in Iraq and Afghanistan has a tremendous effect on the entire Federal budget. By refusing to budget for the cost of the war, the President is submitting annual budgets to Congress that are downright inaccurate. These budget requests are inaccurate. They understate the actual amount of our annual deficits by scores of billions of dollars.

If the President's emergency request for 2005 is approved, the Congress will have approved over $210 billion just for the war in Iraq. While the budget deficit grows to record levels, the President tells us we have to cut domestic programs by $192 billion over the next 5 years. The President tells us we have to charge veterans for their medical care, that we have to cut grants for firefighters and first responders, that we cannot adequately fund the No Child Left Behind Act, and that we should cut funding for the National Institutes of Health. The list goes on and on.

Since the President took office, he has taken a Federal budget that was in

surplus for 4 straight years and produced deficits as far as the human eye can see. For 2006, the President is projecting a deficit of $390 billion, but that deficit estimate does not—does not, does not—include new spending for the war in Iraq. We are not fighting that war on the cheap. It is costing you money, you citizens out there. It is your money; it is costing you money. That deficit estimate does not include new spending, I say, for the war in Iraq. Why? Why does it not? Why does that deficit estimate not include new spending for the war in Iraq? Because the President pretends he cannot project what the war will cost in 2006. Well, Mr. President, I assure you the costs will not be zero.

The President will not tell the American people what the war in Iraq will cost. By understating the deficits, the American people are being led down a primrose path. That is dishonesty. Neither the White House nor Congress is making any tough choices about how to pay for the cost of the war because the administration is not telling Congress how much it thinks the war might cost in the next year. And as a result, there is no talk of raising taxes or cutting spending in order to pay for the costs of the wars.

The United States is sinking deeper and deeper into debt, and the administration's failure to budget for the wars in Iraq and Afghanistan is sending our country even deeper into red ink. For as brilliantly as our troops have performed on the battlefield, as brilliantly as they have fought and died on the battlefield, the administration's budgeteers are creating a budgetary catastrophe. But the executive branch has not always been so neglectful of the need to include in its budget the cost of ongoing wars. According to the Congressional Research Service, there is a long history of Presidents moving the cost of ongoing military operations into their annual budget requests rather than relying completely on supplemental appropriations bills.

For example, the Congressional Research Service reports President Franklin D. Roosevelt included funds for World War II in his fiscal year 1943 budget request. President Lyndon B. Johnson included funds for the Vietnam war in his fiscal year 1966 request. Military operations in Bosnia and the U.S. operations to enforce the no-fly zone over Iraq were initially funded through supplemental appropriations. But in 1995, Congress forced President Bill Clinton to include those costs in his fiscal year 1997 budget, which he did. Upon assuming the Presidency, George W. Bush began to include the cost of the peacekeeping mission in Kosovo in his fiscal year 2001 budget request. I supported President Bush on that initiative because it made good fiscal sense. Twice I have offered amendments to the Defense appropriations bills to urge the President to add the costs of the wars in Iraq and Afghanistan to his budget.

These amendments were approved by strong bipartisan majorities of the Senate. The first time I offered the amendment on July 17, 2003, it was approved 81 to 15. The second time I offered the amendment on June 24, 2004, it received even broader support and was approved 89 to 9. Each time, this sense-of-the-Senate provision was included in the Defense Appropriations Act and signed into law by the President.

Today, I offer an amendment that follows up on the Senate's call for the President to budget for the cost of the wars in Iraq and Afghanistan. Let us just have truth in accounting. This is honest accounting. We are letting the American people know how much they are paying for these wars.

This amendment builds on the sense-of-the-Senate language that has been approved by strong bipartisan majorities of the Senate in each of the last 2 years. Once again, this provision urges the President to budget for the cost of the war in Iraq and the war in Afghanistan. However, my amendment today goes further and urges the President to submit an amended budget request for the cost of the wars to Congress no later than September 1, 2005.

Although the White House should have budgeted for this war long ago, this provision ratchets up the pressure on the administration to submit to Congress an estimate of the cost of the war for fiscal year 2006. Hopefully, this will be the first step in restoring some sanity to the President's budget request that has so far ignored the enormous costs of military operations in Iraq and Afghanistan.

This amendment also contains a section of findings that illustrate many of the points I have already made in urging the President to budget for the war. These findings emphasize the legislative history of the Senate urging the President to budget for the wars in Iraq and Afghanistan. The findings also present some of the conclusions reached by the Congressional Research Service about the funding of previous military operations through the regular appropriations process.

Finally, this amendment includes a reporting requirement that would help keep Congress informed—help keep us informed. We are elected by ''we the people,'' the first three words in the preamble of the Constitution. We are hearing a lot about the Constitution these days, and we are going to hear more. I am going to have a few things to say about it before it is over.

As I said, this amendment includes a reporting requirement that would help to keep Congress informed about the real costs of the wars in Iraq and Afghanistan. This provision would require the Department of Defense to provide Congress with the specific amounts that have been spent to date—what is wrong with that?—for each of the wars in Iraq and Afghanistan. Currently, the Pentagon prefers to report only a single figure that combines the cost of these two wars, but Congress and the American people ought to know the exact cost of the war in Afghanistan. They ought to know the exact cost of the war that was forced upon our country in Afghanistan, and they need to know the cost of the war in Iraq, the war that the administration chose to begin, the invasion that the administration chose to set forth. These wars should not be confused one with the other. They are two different wars, and we should say so right up front. We should know the amount of money we spend in each.

In addition, this report would require the Pentagon to keep the Congress continually informed of estimates of military operations in Iraq and in Afghanistan for the next year so that Congress can have the better lens with which to look upon future budgets for our military.

This is nothing but right. The elected representatives of the people sitting in this body ought to know these things. We are representing the American people in our States and throughout the country. What is wrong with our telling them right up front? We need to know these things. I have a responsibility to my people back home. Not only that, but I have a responsibility to my children, my grandchildren, and to their children. Each of us has that responsibility, and we ought to ask for this information. We ought to insist on it.

Once again, the Senate should send a message to the administration that it ought to budget for the costs of the wars in Iraq and Afghanistan. My amendment sends that message in clear terms. I urge my colleagues to join me in approving this sense-of-the-Senate amendment with another strong bipartisan vote.

I call up my amendment No. 464.

The PRESIDING OFFICER. Without objection, the pending amendment will be set aside. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 464.

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

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

The amendment is as follows:

On page 169, between lines 8 and 9, insert the following:

REQUESTS FOR FUTURE FUNDING FOR MILITARY OPERATIONS IN AFGHANISTAN AND IRAQ

SEC. 1122. (a) FINDINGS.—The Senate makes the following findings:

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87) and the Department of Defense Appropriations Act, 2005 (Public Law 108–287) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year

2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) The Senate has included in its version of the fiscal year 2006 budget resolution, which was adopted by the Senate on March 17, 2005, a reserve fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(5) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 costs for ongoing military operations in Iraq and Afghanistan could total $65,000,000,000.

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

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the President should submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 that was submitted to Congress under section 1105(a) of title 31, United States Code, setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

(c) ADDITIONAL REQUIREMENTS FOR CERTAIN REPORTS.—(1) Each semiannual report to Congress required under a provision of law referred to in paragraph (2) shall include, in addition to the matters specified in the applicable provision of law, the following:

(A) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Enduring Freedom.

(B) A statement of the cumulative total of all amounts obligated, and of all amounts expended, as of the date of such report for Operation Iraqi Freedom.

(C) An estimate of the reasonably foreseeable costs for ongoing military operations to be incurred during the 12-month period beginning on the date of such report.

(2) The provisions of law referred to in this paragraph are as follows:

(A) Section 1120 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1219; 10 U.S.C. 113 note).

(B) Section 9010 of the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 1008; 10 U.S.C. 113 note).

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I rise to speak about immigration and the issue that will be before us for two very important votes tomorrow. My colleague from Alabama is also in the Chamber. I will take the allotted time under the unanimous consent, and then I think he wants to spend more time on these issues.

What I find very fascinating is that everyone who has come to the Senate floor this afternoon to talk about immigration agrees that our country is in near crisis at this moment for our inability to control our borders, to stem the tide of illegal movement into our country, and to fashion comprehensive or targeted immigration law that effectively works. Simply put, our Federal Government has to do better. It has to move faster in improving our border security and meeting this phenomenally large and important issue of illegal immigration.

Congress is no further along today on a comprehensive bill than it was a year ago at this time when my bill, the AgJOBS bill, had a thorough hearing before the Judiciary Committee. It is now well over 1,300 days since we woke up after 9/11 with thousands of our country men and women dead and a phenomenal frightening awakening on the part of the American people that there were millions of undocumented foreign nationals living in our country.

As I said earlier, while most of them are law-abiding, are here to work, and are extremely hard-working people, we found out tragically enough that there were some here with evil intent, and we began to control our borders. I think that is why Congress then again started beefing up border patrol and buying high-tech verification systems for the Department of Homeland Security, and that is why, whether one agrees on the specific methods or not, the House of Representatives just attached to the legislation we are talking about this afternoon a national driver's license standard and asylum changes, those seeking asylum in our country, in the so-called REAL ID provisions to the Iraq supplemental. That is why I have supported a Byrd amendment on this bill to take money away from certain portions of this bill that are not immediately necessary for our troops for their security and allow our border security to hire more investigators and enforcement agents to boost up that whole area we are so concerned about.

That is why I am cosponsoring a bill that helps States deal with undocumented criminal aliens. We must get it right everywhere if we are going to reinstate in our country secure borders and functional immigration law. That is why I have worked for the last good number of years on AgJOBS. We talk about it here today. What does it mean? It means Agricultural Job Opportunities, Benefits and Security Act. That is why we are on the floor of the Senate today.

Some would argue we ought to be doing the Iraqi supplemental because it is urgent. None of this money is immediately necessary in Iraq. The House took 2 months to craft it. We are going to take a few days to pass it. But I must tell you as I have before, I believe the crisis in immigration today is every bit as significant. No matter the money we pour along the borders, still our borders are not under control, especially our southern border.

Senator KENNEDY came to the floor a few moments ago to give a very comprehensive analysis of how he and I, and now over 500 groups, have come together to try to resolve the issue of immigration, specific to American agriculture. Those are the issues at hand at this moment. We are not in any way obstructing the process. This afternoon could have been filled with amendments on the supplemental if those who have amendments would have been here to offer them. We are simply taking time in the debate. We will have those votes tomorrow. If Senators SAXBY CHAMBLISS and JON KYL do not get the necessary 60 votes, or I do not on these issues, they will be set aside. But they will not go away, because I do believe, as I think most Americans believe, somehow we have to get this right. Somehow it is necessary to do so.

I am committed to making this debate as brief as possible. That is why I agreed to a unanimous consent request to conform it and to shape it, but to allow a full and fair and necessary debate. As far as I am concerned, a thorough debate on AgJOBS does not need to take a multiple of days or months. Every Senator knows this issue. Every Senator knows his and her constituents are upset at this moment because somehow Congress has failed to deal with this issue. I have received my fair share of criticism from some of my constituents for offering AgJOBS. I smiled and said: You sent me to work in Washington to solve a problem. I brought the solution to that problem. I believe it is the right one. No one else, except for those this afternoon, has brought a second solution. I welcome all Senators to get involved in this debate and understand the issues. But most importantly, we cannot do what past Congresses have done or what we have done for the over 1,300 days since 9/11, look over our shoulder and say: Oh, boy, that is a big problem; and, oh, boy, our borders are at risk and, yes, some of those illegals could be here to do us harm, but we can't seem to get our hands around it because it is such a complicated issue.

I do not dispute its complications. But I am frustrated that the Senate and the House have literally not been able to act. I believe the Senate has had enough time. As I mentioned earlier, we have seen this bill when it was

before the Judiciary Committee. I think most of my colleagues know about AgJOBS. Yes, 63 Senators supported it last year. We are now nearly at 50 at this time. Clearly a large number do support it. I think that is extremely important that we do. It is so necessary that we move appropriately to solve this problem and solve it in a timely fashion. This now gives us an opportunity to do that.

As I said to my colleagues, I have worked on this issue with numerous communities of interest for nearly 5 years to craft what we believe is one of the best approaches to solving the problem, not only recognizing that illegals, the undocumented are a problem in our country, but once they are here, and if they are here illegally, how do we treat them? How does the agricultural economy provide for them and respond to them while they are so necessary in that workforce? That is what is embodied in AgJOBS. It is not simply a threshold of how you transition through. It is in reality a major reform of the H–2A program.

Let's continue with this issue. I am going to stop at this moment. My colleague Senator SESSIONS is on the floor. I need to step away a few moments. I know he has important things to say—many that I agree with, but there are some I do not agree with.

Don't kick this ball down the field to another day. We look now at a comprehensive piece of legislation. It is very necessary we attempt to solve it now, get this Congress involved, and tell the American people we hear them, we know our national security is at risk, and in this instance our food security is at risk. We need to solve a very important problem.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Idaho. Senator CRAIG is one of my favorite Members of the Senate. We agree on many things. We have not agreed on this one.

Yes, I think we all understand we are dealing with a broad, important, and complex issue. It does require us to give it some thought. But the point of the matter is we are being asked to vote on AgJOBS tomorrow. People are going to have to cast a vote on this bill. I urge you not to vote for this legislation, because it should not be on the Defense supplemental and, second, because it is flawed, seriously flawed. It is not consistent with what I think are the views of most Members of Congress or the American people on how we ought to handle this matter.

I mentioned briefly earlier how the process toward amnesty works in this legislation. I would like to refer to this chart. I think it makes the point rather simply. I do not think it is disputed.

You have people who came here illegally. Perhaps they are in the country, perhaps they have already gone back to their home country, but they have violated our law by coming here, both in coming here and in working illegally for some firm or company.

If they have done that and if, within 18 months of December 31 of last year, 2004, they have worked 100 workdays—and they have defined a workday in the act as 1 hour, so that could be 100 hours of work—they earn what the proponents of this legislation say they are earning: their right to be here.

They are being paid for this, presumably. They didn't come here to work for not being paid. They came for a salary they are willing to accept. They work here for 100 hours. Then they become a lawful, temporary resident. Then all of a sudden someone who was here unlawfully is now converted to a lawful resident.

A number of things occur after that. If they have family here, a spouse or children—one, two, three, four, five, six—and that spouse or those children may have been here 6 weeks, the spouse and children are entitled to stay as long as the person who now has become a lawful, temporary resident; and within the next 6 years, if that person is employed in agriculture for 2,060 hours—the average worker works about 2000 hours a year, so that would be about 1 year out of 6, being paid for this—they have therefore earned legal permanent resident status. That is pretty significant, legal permanent residency, because if you become a legal permanent resident, then you are no longer an indentured servant. You are not required to work in agriculture. You can work on any job you want.

It might be this court reporting job right here.

I don't know what they want to work on. They became a legal, permanent resident. They can wait for 5 years, and then they are virtually guaranteed a citizenship unless they are convicted—charged, convicted—of a felony or convicted of three misdemeanors. A misdemeanor can be a pretty serious offense sometimes.

I am not sure we want somebody to want to come here to commit a bunch of misdemeanors. You don't usually get caught for all of them. People do things and half the time they do not get caught at all. If you catch a victim twice on a misdemeanor, that can be very serious.

Then they are given citizenship.

By the way, if their children are not here, have never been here, and they became a lawful, permanent resident, they can send for them—one, two, or five members. They can come on down and be a part of the United States and be on the road to citizenship, even though maybe that was never the intention. Maybe it was never the intention, to begin with, for their family to come here.

Mr. CRAIG. Mr. President, will the Senator yield?

Mr. SESSIONS. Yes.

Mr. CRAIG. The Senator is making a very interesting point. Has the Senator looked at the Bureau of Labor Statistics' numbers of those they believe—if the law were passed—are AgJOBS eligible?

Mr. SESSIONS. About a million.

Mr. CRAIG. About 500,000 is what they estimate. When you do all of the very thorough background checks we have within it that are consistent with immigration law today, they figure a certain number would fall out, and then there are the wives and dependents. A very large number of these are not married. They have no immediate family—about 200,000 more. It is reasonable to say the Department of Labor is looking at a total number of workers, spouse, and dependents of upwards of possibly 700,000. I know millions and millions are talked about. I believe that is unrealistic based on the Bureau of Labor Statistics.

Does the Senator disagree with those figures?

Mr. SESSIONS. I will say it this way: I will say it is very likely to be a million.

Mr. CRAIG. Based on what figures?

Mr. SESSIONS. Close to a million, if you take the figure of 700,000. I am not sure we have thought it through.

The Senator, I believe—who was here in 1987 when the 1986 amnesty was passed—would admit that the estimate of how many people would take advantage of it was very low. In fact, I believe three times as many people took advantage of that amnesty as the estimators estimated. It could happen here. I don't know.

Mr. CRAIG. I don't disagree with that. But the criteria was entirely different. If I could be so kind, I think my colleague is mixing apples and oranges and getting an interesting blend of a new juice. An earned status approach has never been used before. The full background check, and the thoroughness of that background check as we anticipate in this legislation, is only used when you have a legal immigrant standing in line. In fact, our law is more stringent for illegal than it is for the legal immigrant because they can get the misdemeanors. We say, if you get a misdemeanor with 6 months' incarceration, that is pretty serious. The Senator from Alabama is an attorney. Would he agree with that? They are out of here. There is a much different criteria when you start comparing the total numbers. That is why I think they would be different.

Mr. SESSIONS. The act says three convictions of misdemeanors. The Senator is right. It can be up to 6 months or a year.

Mr. CRAIG. Then they are deported.

Mr. SESSIONS. Not if there are two convictions.

Mr. CRAIG. That is correct. That is the current law. That is what current law says for the illegal immigrant.

Mr. SESSIONS. It is in the legislation.

Mr. CRAIG. It is in the law.

Mr. SESSIONS. For those here illegally and want amnesty to be given even though they have already violated immigration laws.

Mr. CRAIG. I thank my colleague for yielding. What is important is the bill be read very thoroughly. Extrapolations can be made. But when it says 100 hours of work, I think it is important to assume you would only work 1 hour a day for 100 days. That is not a very logical process.

I thank the Senator for yielding.

Mr. SESSIONS. I agree with the Senator on that. I will disagree with the concept that somehow, by working here, coming here, and getting a job you wanted to get when you came, that that is somehow earning something, if you did it illegally. You are getting what you wanted, which was pay for the work.

That is what I would point out. Then, a family would be automatically eligible to come into the country. I don't think there is any dispute about that.

If a person came here illegally, if they worked here 18 months and met those qualifications of 100 workdays, or 565 hours, I believe—either way, it is not very much—they can come even though they are not here now. In other words, if they did that illegally, worked here and for some reason went back home, then they are getting a letter from Uncle Sam saying, By the way, we know you violated our law but we are in a forgiving mood. You can come on back and join the process toward citizenship and bring your family, too.

I am not sure that is what we want to do. I don't think it is what we want to do. That is the fundamental of this legislation.

I think that is what you call amnesty. Not only does it give the person what they wanted in terms of being able to come into the country and get a job and be paid, that puts them on a track—unless they get seriously conflicted with the law—to be a permanent resident and then even a citizen, and their children and family can be on that same track.

That is a big deal. That is what I am saying. It is not something we need to be rushing into on this legislation today.

Under section 101(d)(8), entitled ''Eligibility for Legal Services,'' it is required under the act that free, federally funded legal counsel be afforded, through the Legal Services Corporation, to assist temporary workers in the application process for adjustment to lawful permanent resident status.

American workers are not always available for that. They have to meet other standards such as need and that sort of thing.

Also, the act gives several advantages to foreign workers not provided to American workers. Look at this.

Section 101(b), rights of aliens granted temporary resident status.

Right here—temporary resident status.

Terms of employment respecting aliens admitted under this section, A, prohibition.

Quoting:

> 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.

Then they set up a big process for this. There is a complaint process. The subsection sets out a process for filing complaints for termination without just cause. If reasonable cause exists, the Secretary shall initiate binding arbitration proceedings and pay the fee and expenses of the arbitrator. Attorneys' fees will be the responsibility of each party. The complaint process does not preclude ''any other rights an employee may have under applicable law.''

That means they could file under this process for unjust termination and hire a plaintiffs lawyer and sue the business for whatever else you want to sue them for.

> Any fact or finding made by the arbitrator shall not be conclusive or binding in any separate action—

That is the action filed in the court by plaintiffs' lawyer—

> or subsequent action or proceeding between the employee and the employer.

I submit to you, by the language of this statute, it would appear they intend for that to be admissible, if not binding. It says not binding but the implication would be it would be admissible.

This means an employer cannot allow that arbitration proceeding to go without an attorney. He will have to hire an attorney and go down there because things will go wrong and that will be used against him in any civil action that might take place. They have to pay counsel in both places.

This section will override State laws in America. In Alabama, unless you enter into a contract that states otherwise for employment, your work for an employer is at will. Contracts of employment at will mean just that: it is the will of either party. Employees can quit at will and employers can terminate at will, with cause or without cause, and for no reason, good or bad reason.

That is the way I think it is in most States. Certainly that is true in my State. This provision will mean illegal aliens who file for amnesty under the AgJOBs amendment, after coming here illegally in violation of our law, are guaranteed to have a job unless they are terminated for just cause. If the AgJOBS amendment passes, employers of aliens given amnesty will be subject to forced and binding arbitration regarding the termination of the alien, and they will have to cover their legal bills for the defense in arbitrations even if the arbitrator finds they had just cause to terminate the alien.

I suggest what we are about here is a provision for greater protection for a foreign worker, one not only who is foreign but who previously violated American law. If you were an employer and you need to lay off one person, and you have two working for you, and one would have the ability to take you through arbitration and argue that you did not have just cause, and the other one had no such rights, you might fire the American citizen first, not the foreigner.

There is another provision I will talk about later that deals with the filing of the application. The Senator says they will be doing background checks. I see nothing in here that provides for background checks. It requires an application to be filed to become a temporary resident. Get this: It can be filed with two groups who are called ''qualified designated entities.'' That can be an employer group who wants workers to come here to work for them, or a labor group. And they are qualified entities. The application is filed with them.

It prohibits giving the application to the Secretary of Homeland Security unless a lawyer has read it first. It says the entities that receive this application cannot give it to the Secretary unless they are conducting a fraud investigation. How would they know to conduct one if they haven't seen the documents? It might be fraudulent.

It is a rather weird idea, is antigovernment, and seems to be far more concerned with protecting an applicant who may be committing fraud than protecting the security and the laws of the United States.

I yield the floor.

Mrs. FEINSTEIN. Mr. President, I would like to express my opposition to the AgJOBS bill as it is currently drafted.

This is a very complicated bill. It is a magnet for illegal immigration. It has not been reviewed by the Judiciary Committee. We do not know how many people would be affected by it.

Rather, it has come to the floor as an amendment to the supplemental appropriations bill.

This is not the place for this bill. I believe it is a mistake to pass this bill on an emergency supplemental that is designed to provide help for our military, fighting in extraordinary circumstances.

That is why I cosponsored an amendment with Senator CORNYN saying that the place to do these amendments is through the regular order, beginning in the Immigration Subcommittee of the Judiciary Committee. This amendment passed by a vote of 61 to 38.

And that is why I will vote against cloture on the AgJOBS bill and on the other complicated immigration amendment, the Chambliss-Kyl amendment.

If, however, cloture is invoked, then I plan on offering several amendments that I believe will improve the bill.

If these amendments are approved by the full body, or are later incorporated into the bill through an appropriate Judiciary Committee markup, then I would be prepared to support the bill.

But otherwise, it is my intention to vote against the bill. I simply cannot support the bill in good conscience as it is.

I believe the bill as drafted is a huge magnet. The Judiciary Committee has

not had a chance to review it, amend it, mark it up. And it does not belong on a supplemental appropriations bill.

We know that people come to this country illegally.

They come for many different reasons. Some out of fear of persecution, some for work, all for opportunity.

In 2000, it was estimated that there were 7 million unauthorized aliens in this country. And by 2002, this number had grown to 9.3 million. These are Census numbers reported in the CRS Report on Immigration, updated 4/08/05.

In agriculture, approximately 1.25 million, or about 50 percent of the agricultural work force, are illegal workers—600,000 of whom live and work in California. These numbers are from the Department of Labor.

Many of these workers have been here for years, have worked hard, brought their families here, and have built their lives here.

With respect to agricultural work, I know that it is extraordinarily difficult, if not impossible, to get Americans to work in agricultural labor.

I did not believe it. Several years ago we contacted every welfare office in the State. And every welfare office in the State told us that once they put a sign up, no one responded.

So I think it is the right thing to do to give the workers who have been here for a substantial period of time, who have been working in agriculture, who have been good members of society, and who will continue to work in agriculture, a way to adjust their status.

What I do not support is creating a magnet that draws large additional numbers of illegal immigration. Not only would this have a detrimental effect on our society, but it would harm the people we are trying to help through this bill.

Here is why: An influx in illegal immigrants would flood the labor market, make jobs more difficult to find, and drive down wages.

For those of you who doubt the magnet effect, you have only to examine what happened when President Bush announced his guest worker proposal early last year.

Despite the fact that the President's proposal had no path to legalization, the mere announcement of the proposal fueled a rush along the Southwest border.

The Los Angeles Time on May 16, 2004, reported: ''detentions of illegal immigrants along the border . . . have risen 30% over the first seven months of the fiscal year, a period that includes the four months since Bush announced his plan.''

Similarly, the San Diego Union Tribune on January 27, 2004, reported: ''U.S. Border Patrol officials report a 15 percent increase in the use of fraudulent documents at the world's busiest land border crossing [San Ysidro]. And more than half of those caught using phony documents say the president's offer of de facto amnesty motivated them to attempt to sneak into the United States.''

Does anyone doubt that this increase was related to anything but the President's proposal? Of course not.

When I raised the concern with the authors of the legislation, that this legislation would be a magnet that would attract large numbers, they seemed to believe that the fact that the bill only applies to those who were in this country and working in agriculture as of December 31, 2004, would be sufficient to deter people from illegal entry.

I do not believe that is the case. I think people will see that they only need 100 days of work to qualify for temporary residence; they will not be deterred by the operative date, and will say, ''I'll find a job, work 100 days, and then I'm legal and can bring my family.''

The first two of these amendments I would like to offer would increase the time someone must demonstrate he or she has been in the United States working in agriculture in order to qualify for temporary and permanent residence.

This would discourage others from coming to this country, and help those who have been here for many years.

Here is what the first amendment would do. In order to qualify for temporary residence, workers would have to demonstrate that they have worked for at least three years in agricultural work prior to December 31, 2004.

For each of the 3 years, the worker would be required to show 100 workdays, or 575 hours, per year in agriculture.

Here is what the second amendment would do. In order to qualify for permanent residence, a green card, workers would have to show that they have worked at least 5 years in agricultural work following enactment of the bill. For each of the five years, the worker would again have to demonstrate 100 work-days, or 575 hours, per year.

So by extending the length of time a worker needs to have worked both in the past and the future, these amendments reduce the incentives for more illegal immigration.

The next amendment addresses another major concern that I have.

The bill currently allows someone with one or two misdemeanor criminal convictions in the United States to apply for temporary residence or a green card. I think this is a mistake.

So the amendment I am offering strikes this language and ensures that those with criminal records do not qualify for benefits—if they have even one criminal conviction in the United States, or anywhere.

I believe that no one who has a criminal conviction should be the recipient of temporary residence or a green card under this program.

Misdemeanors include petty theft, simple assault against persons, driving under the influence, certain drug offenses, and misdemeanor battery.

In some States, they include cases of child abuse or domestic abuse, public assistance fraud, or abandonment of a child under the age of 10.

I do not believe we should allow anyone to apply for a benefit as significant as a green card under this bill if they have committed any crime, let alone the two misdemeanors that the bill currently allows.

The final amendment I am offering would prohibit workers who are living outside the United States from applying for temporary residence under this bill.

The bill allows those living in other countries to apply for benefits under this bill—as long as they can demonstrate the appropriate time spent in agricultural work in the United States prior to their departure from this country.

This means that someone could come to the United States illegally, work here illegally, return to their home country, and still apply for a green card under this bill. This simply makes no sense.

If we are going to give agricultural workers a way to adjust their status, let us limit it to those who are living and working in this country.

California is the No. 1 agriculture-producing State in the Nation.

I recognize that this status is based on the hard work of people who have been living on the edges of our society, living in fear, and constantly worried about being removed from this country.

It is time for the Government to recognize that these people have made a substantial contribution to our country and offer them a way to adjust their status.

Remember, there are already 1.25 million agricultural workers here illegally, 600,000 in California.

These amendments would concentrate on their adjustment of status, thereby moving the workers and their families from the shadows and allowing them temporary, and subsequently, permanent legal status.

But I think that we have to be careful in how we proceed—if we do it the right way, we can help those who have been working in agriculture for many years and who have been good, upstanding members of society.

These are the people we should be trying to help: They have children, many of whom are born here and are U.S. citizens. They have paid taxes. Some have bought homes. They have worked hard for everything they have gotten. They have been good, productive members of society.

But if we do it the wrong way—we will actually cause great harm to the agriculture workers who have been here for years—we will create a magnet, flooding the borders, pushing down wages, and making it more difficult to find work.

These are simple, commonsense amendments.

As I said before, I would have preferred to do this in committee where we could have the time necessary to consider such complicated legislation.

But if we are to pass an agricultural workers bill, let it be one that helps those who have contributed to our society and one that will not cause great harm to our Nation.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I was looking on our desks at the bill that is actually supposed to be the subject of this debate. It is 231 pages long. It provides an emergency appropriation to help pay for our ongoing global war on terror. I remind my colleagues that is the stated purpose for this Senate time.

Indeed, last week 60 of my colleagues joined me in saying that national security demands the passage of this bill unencumbered by a premature debate on immigration reform.

Listening to our colleague from Alabama and others who have spoken to this subject, we are getting a better sense of how complicated this issue is and why it is so important, as 61 of us said last week, that we proceed with this emergency appropriation for the ongoing global war on terror and reserve enactment of comprehensive immigration reform for a few months hence, after we have had a chance to go through the appropriate committees of the Congress, the Subcommittee on Immigration, Border Security, and Citizenship that I chair in the Judiciary Committee. Chairman SPECTER of the full committee has promised an expedited markup once we are able to go through the regular order and develop a comprehensive plan.

Notwithstanding the sense of the Senate by 61 Members that we should not engage in this premature debate and risk bogging down this important bill to provide financing to our troops in the battlefield, here we are.

What is it that the problem of this bill, the so-called AgJOBS amendment, seeks to fix? I suggest it does not purport to fix our porous borders. It does nothing to provide additional resources to our beleaguered Border Patrol and others who are doing the very best they can to try to secure our borders. We know not only do people come across those borders to work, but the same people who will smuggle those workers across the border are the same people who can smuggle terrorists or criminals or others who want to do us ill across those borders. So AgJOBS, just so everyone understands, does not purport to deal with that problem.

Does this bill purport to deal with another glaring deficiency we have; that is, a lack of detention facilities for those people our Border Patrol do catch and detain at the border so we do not have to continue in what is sometimes called a catch and release program where detainees, people who cross illegally are detained but because we do not have adequate facilities are released and they merely try again, and perhaps try and try and try until they finally make their way across the border and into the interior of the United States and simply melt into the landscape? This bill does not have anything to do with that. It will not fix that problem. Nor does this bill provide additional resources and equipment to our Border Patrol who, as I indicate, are outmanned and underequipped.

This AgJOBS amendment, nor the alternative offered by Senator CHAMBLISS and Senator KYL, does not purport to deal with the problem of 40 percent of the illegal immigration in this country coming from overstays. By that I mean people who come here legally on a student visa or a tourist visa or some other short-term legal authorization but simply blow past that deadline and, here again, become part of that population estimated to be somewhere on the order of 10 million people—although we really do not know—who are currently living in the United States outside of our laws. This bill does not purport to even address that.

It does not do a better job of helping identify who is in our country and why they are here, why they chose to come outside of our laws and live in the shadows. It does not help us do a better job of identifying them and asserting what their purposes are in our country—whether they are criminals, whether they are potential terrorists, or whether they are people coming here simply to work.

This AgJOBS bill also does not deal with the difficulty involved with employers who want to try to ascertain the legal status of their workforce. It does not help them by providing them a database of workers who are lawfully in the country and who are authorized to accept employment. So employers have to persist in doing the best they can in trying to fill the jobs that go wanting for lack of workers by hiring people they perhaps do not know but would have to admit, perhaps in private conversations, are people who are here illegally outside of our laws. This bill does not help them one bit. This bill does not provide a database of workers who are actually authorized to work and who are legally present in the country.

My point is, there are a lot of problems that confront our national security, a lot of problems that confront our immigration system that need to be addressed that are not addressed in this legislation. To the contrary, rather than trying to address immigration reform comprehensively, rather than trying to improve our border security, our homeland security, by knowing who is in our country and why, rather than providing us a better means of identifying those who, although they begin in this country legally, overstay their time and become part of the population that is here illegally, rather than help employers, this bill does none of that. Instead, what it does is it deals with one segment of the industry that has grown to depend on undocumented workers, and that is the agriculture industry.

While I am sympathetic to their concerns, the problem is that it is only one of the industries that relies on undocumented workers. You could as easily file a bill and rather than call it an AgJOBS bill, you could call it a restaurant workers bill, or a residential construction workers bill, or a hotel workers bill, or any one of the number of different industries that has, over time, grown to depend on approximately 6 million people who constitute the illegal workforce currently in the United States.

This bill does not purport to deal with any of those other industries and thus chooses one over the other in a way that I think violates one of the fundamental principles of American law, and that is that persons similarly situated ought to be treated as equally as possible and not in any favorable or discriminatory fashion.

So I think this bill, as premature as it is, as well intended as it may be, does not help us solve a lot of the problems that can only be addressed by comprehensive immigration reform. It actually does harm by violating some of our basic principles of equal justice under the law. It is important we deal with these problems.

I failed to mention one of the problems is we have approximately 400,000 absconders present in the country now and we simply do not have the adequate human or other resources necessary to find out where they are and to show them the way out of the country. Among these absconders, unlike the rest of the population I mentioned, the some 10 million people, are individuals who have been convicted of serious crimes, about 80,000 of them, and who simply have melted into the landscape. As I say, we have about 400,000 absconders, including those 80,000, the difference being those who have simply exhausted all means of appeal and review in our immigration system, who are under final orders of deportation, but who, rather than be deported, have simply gone underground. Here again, this is another issue this bill does not deal with that comprehensive immigration reform would and that we should.

What I fear will happen, because it may be tempting to try to fix our immigration problems on a piecemeal basis, is piecemeal solutions and efforts will risk undermining the larger effort and the need to enact comprehensive reform. Indeed, I would venture a guess that if the AgJOBS bill were successful, or even if the alternative offered by the Senator from Georgia and the Senator from Arizona were to be successful, there would be many in this Chamber, and perhaps around this country, who would say: OK, now we have finished that job. We do not need to look at any further immigration reform.

The only problem with that is they would be wrong, given the glaring problems that do exist in our country and the challenges to our national security and our ability to look ourselves in the mirror and say, yes, we are a nation of laws, when, in fact, we have such lawlessness existing among us for any one

of us to see, if we take the time to look at it.

Well, besides dealing with one industry, the AgJOBS bill also has some very troublesome provisions which I think undermine its claimed status as a temporary worker provision. Indeed, an estimated 860,000 illegal alien agricultural workers could qualify, and it also permits them to bring their spouses and children, which could bring the total number of AgJOBS beneficiaries to as many as 3 million people.

Now, the interesting thing about that is it does not stop at the people who are already here who came into the country in violation of our laws. Another startling provision of this bill actually invites back to the United States certain aliens who were here illegally and who performed the requisite 100 hours of agricultural work between July 2003 and December 2004 but who have already left. These aliens would be allowed, under this AgJOBS bill, to drop off a ''preliminary application'' at a designated port of entry along the southern land border, pick up a work permit, and reenter the United States.

So not only are we dealing with people who are here now but people who were here illegally and who have left. We are now saying: Come on back and pick up a work permit and reenter this pathway toward full American citizenship ahead of all of the other people who are playing by the rules and waiting in line. That is wrong.

Another provision of this bill which I have some concerns about is entitled ''Eligibility for Legal Services,'' which requires free, federally funded legal counsel be afforded—that is, paid for—by American taxpayer dollars through the Legal Services Corporation to assist temporary workers in the application process for legal permanent residency.

Not only does this bill deal with a specific industry and ignore the rest of the industries that have come to rely, in significant part, on undocumented workers, this invites into our country the spouses and children of these workers—a total of some 3 million people potentially. And these workers, of course, will not be here temporarily if they are essentially setting up home in the United States.

There is a difference between an approach that says we will set up a framework for people to come and work but then return to their country, which is truly a temporary worker program, and one such as this which says, don't just work and return, but work and stay and break in ahead of the line of all the other people who have applied to come to this country legally, even though you have chosen to do so otherwise. Beyond that, we are going to provide you with a free lawyer.

I think it is not a stretch to say the AgJOBS bill will invite even more lawsuits since it expands the ability of the Legal Services Corporation to sue growers in several areas.

The reasons the current provisions of the law which deal with agricultural workers have been unsuccessful are, No. 1, because the caps are set too low and, No. 2, because it has become so bureaucratic and burdened by regulation that it basically is not a viable alternative for the agricultural industry, and growers have come to expect excessive litigation as a result, which this AgJOBS bill would do nothing to fix but would aggravate.

Let me speak briefly about the bill Senators KYL and CHAMBLISS have offered today. It does compare favorably with some of the provisions in the AgJOBS bill because it does not provide for amnesty. It does not provide a path to U.S. citizenship automatically ahead of all of the other people who have played by the rules and who have applied in the regular course of our laws. It has many of the same failings I mentioned earlier about being a partial solution to a real and comprehensive problem.

I hope my colleagues will recall the vote they cast just last week, when 61 of us voted on a sense of the Senate to say that this appropriations bill, providing emergency funds for the warfighters, the people risking their very lives to defend us in the global war on terrorism, ought to take the front seat and that we ought to reserve comprehensive immigration reform to a later date and not slow this bill down because of that.

Having not resisted the temptation to get embroiled in an immigration debate, I hope our colleagues will listen carefully to the half solutions and the special interest legislation this represents. I don't begrudge employers who need workers from trying to find a legal solution to that. I am for doing that but on a comprehensive basis, not just an industry-specific basis and particularly not on a basis that provides additional benefits to these workers in the form of amnesty that they would not otherwise be entitled to and denies other people equal opportunity to participate in a temporary worker program.

As complicated as this issue is and as important as the debate is, now is not the time to be engaging in it. Certainly now is not the time to pass a partial solution which will undermine our ability to get comprehensive immigration reform done.

It is my distinct impression that there is a big difference between the thinking on the part of the advocates of the AgJOBS bill in this Chamber and our colleagues on the other side of the Capitol. Realistically, as part of this emergency appropriations bill, to get the warfighters what they need in order to do the job we have asked them to do and which they volunteered to do, I cannot see the other Chamber agreeing to this ill-considered and premature immigration legislation at this time.

I urge my colleagues to vote against both the AgJOBS bill, to vote against the alternative offered by the Senators from Georgia and Arizona, but at the same time to say, you are more than welcome, as we work together for comprehensive reform, to work with us. We will try to meet you halfway in working out a consensus on this very tough and complex but important issue that should not be handled in the way they have proposed to handle it.

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. ISAKSON. 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. 429

Mr. ISAKSON. I ask unanimous consent to temporarily set aside the amendment, and I ask that we call up amendment No. 429.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 429.

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

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

(The amendment is printed in the RECORD of April 14, 2005 under ''Text of Amendments.'')

Mr. COCHRAN. Mr. President, I ask unanimous consent that at 5:30 today the Senate proceed to a vote in relation to the Byrd amendment No. 464, with no second-degree amendments in order to the amendment prior to the vote. It has been cleared on both sides.

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

Mr. ISAKSON. Mr. President, given the pending time prior to the vote we will have in a few minutes, I ask unanimous consent to address the Senate as in morning business for 2 minutes.

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

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

Mr. COCHRAN. 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. COCHRAN. 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. 464

The PRESIDING OFFICER. The question is on agreeing to amendment No. 464 offered by the Senator from West Virginia, Mr. BYRD.

Mr. COCHRAN. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FRIST. The following Senators were necessarily absent: the Senator from Missouri, (Mr. BOND), the Senator from Montana, (Mr. BURNS), and the Senator from Kentucky, Mr. MCCONNELL.

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

Ms. STABENOW. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Illinois, (Mr. DURBIN), the Senator from Massachusetts (Mr. KERRY), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from Illinois (Mr. OBAMA), are necessarily absent. I further announce that, if present and voting, the Senator from Illinois (Mr. DURBIN) and the Senator from Illinois (Mr. OBAMA) would each vote ''aye.''

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

The result was announced—yeas 61, nays 31, as follows:

[Rollcall Vote No. 96 Leg.]

YEAS—61

Akaka	Dorgan	Nelson (NE)
Allen	Feingold	Pryor
Baucus	Feinstein	Reed
Bayh	Hagel	Reid
Bennett	Harkin	Rockefeller
Bingaman	Hatch	Salazar
Boxer	Hutchison	Sarbanes
Byrd	Inouye	Schumer
Cantwell	Jeffords	Smith
Carper	Johnson	Snowe
Chafee	Kennedy	Specter
Clinton	Kohl	Stabenow
Coburn	Lautenberg	Stevens
Coleman	Leahy	Sununu
Collins	Levin	Talent
Conrad	Lieberman	Thune
Corzine	Lincoln	Voinovich
Craig	McCain	Warner
Crapo	Mikulski	Wyden
Dayton	Murray	
Dodd	Nelson (FL)	

NAYS—31

Alexander	Domenici	Lugar
Allard	Ensign	Martinez
Brownback	Enzi	Murkowski
Bunning	Frist	Roberts
Burr	Graham	Santorum
Chambliss	Grassley	Sessions
Cochran	Gregg	Shelby
Cornyn	Inhofe	Thomas
DeMint	Isakson	Vitter
DeWine	Kyl	
Dole	Lott	

NOT VOTING—8

Biden	Durbin	McConnell
Bond	Kerry	Obama
Burns	Landrieu	

The amendment (No. 464) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, the Senators from Illinois, Mr. DURBIN and Mr. OBAMA, are necessarily absent today to attend the dedication and opening of the Abraham Lincoln Presidential Library and Museum in Springfield, IL.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside so I might call up the amendment at the desk, No. 463.

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

AMENDMENT NO. 463

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 463.

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

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

The amendment is as follows:

(Purpose: To require a quarterly report on audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan and to address irregularities identified in such reports)

On page 169, between lines 8 and 9, insert the following:

AUDITS OF DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN

SEC. 1122. (a)(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Director of the Defense Contract Audit Agency, shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives a report that lists and describes audits conducted by the Defense Contract Audit Agency of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan.

(2) The Secretary of Defense shall identify in the report submitted under paragraph (1)—

(A) any such task or delivery order contract or other contract that the Director of the Defense Contract Audit Agency determines involves costs that are unjustified, unsupported, or questionable, including any charges assessed on goods or services not provided in connection with such task or delivery order contract or other contract; and

(B) the amount of the unjustified, unsupported, or questionable costs and the percentage of the total value of such task or delivery order contract or other contract that such costs represent.

(3) The Secretary of Defense shall submit to the Committee on Appropriations and the Committee on Armed Services of the Senate and the Committee on Appropriations and the Committee on Armed Services of the House of Representatives an update of the report submitted under paragraph (1) every 90 days thereafter.

(b) In the event that any costs under a contract are identified by the Director of the Defense Contract Audit Agency as unjustified, unsupported, or questionable pursuant to subsection (a)(2), the Secretary of Defense shall withhold from amounts otherwise payable to the contractor under such contract a sum equal to 115 percent of the total amount of such costs.

(c) Upon a subsequent determination by the Director of the Defense Contract Audit Agency that any unjustified, unsupported, or questionable cost for which an amount payable was withheld under subsection (b) has been justified, supported, or answered, as the case may be, the Secretary of Defense may release such amount for payment to the contractor concerned.

(d) In each report or update submitted under subsection (a), the Secretary of Defense shall describe each action taken under subsection (b) or (c) during the period covered by such report or update.

Mr. BYRD. Mr. President, with this supplemental appropriations bill, Congress will have appropriated $300 billion for military operations and reconstruction activities in Iraq and Afghanistan. That is an enormous sum of money. We say it is for the troops in the field, for armor, weapons, equipment, and other mechanisms necessary to wage a war. But a significant portion does not make it to the troops. Much of it goes to defense contractors, corporate giants such as Halliburton that profit from the military operations and defense expenditures of the U.S. Government.

Halliburton reportedly has been awarded $11 billion in Iraq contracts. The war in Iraq may symbolize a time of sacrifice for American families, but for some—not all but for some—defense contractors, the cold, hard truth is that Iraq has become an opportunity to reap an enormous profit from American's decision to send America's sons and daughters into war. It is incumbent upon the Congress to be diligent in how these moneys are allocated to defense contractors. It is incumbent upon the Congress to be thorough in its oversight and to be meticulous in its accounting.

The administration has submitted five emergency supplemental spending bills for Iraq and Afghanistan. The size of these supplemental requests is massive, exceeding $80 billion this year, $25 million last year, and $160 billion the year before that. Most of these costs are being considered outside the checks and oversight of the regular budget and appropriations process. It is a confusing and, at times, a beguiling process that results in enormous sums of money flowing to contractors in Iraq, oftentimes without adequate oversight. Such a process invites waste, abuse, and fraud.

I don't belittle the role of defense contractors in Iraq. I belittle the circumstances that the administration has fostered. I belittle the suspicion that this administration has created by veiling its contractor negotiations in secrecy, and the whirlwind of allegations of misconduct and fraud that the administration has invited by not sharing information with the people of the United States, the American public.

The American people have good reason to question the costs emanating from contractors in Iraqi oil fields and Iraqi communities.

Three separate Government auditors have criticized contractor waste in Iraq. Government investigators point

to unsubstantiated costs and to sloppy accounting. Fortune magazine's analysis of Government reports found $2 billion of unjustified or undocumented charges. The Pentagon's Defense Contract Audit Agency has cited inadequacies and deficiencies in contractor billing systems, along with unreasonable and illogical cost justification. The Wall Street Journal reports that Pentagon auditors are investigating whether Halliburton overcharged taxpayers by $212 million for delivering fuel to Iraq.

Questions have arisen in the House of Representatives about why these costs had been concealed from international auditors. The Government Accountability Office has cited the risks of inadequate cost controls for contractors in Iraq. The Coalition Provisional Authority's inspector general cited millions of dollars in overcharges from Halliburton employees indulging themselves at the Kuwait Hilton. Imagine U.S. soldiers in the field forced to survive on military rations and suffering the unbearable heat of the desert while Halliburton employees enjoy the breakfast buffet in an air-conditioned Hilton.

The House Government Reform Committee reported hundreds of millions of dollars in waste by some contractors. A glance at the committee Web site reveals tens of millions of dollars in questionable charges—task order after task order showing $86 million in unexplained charges, $34 million in unsupported costs, $36 million in unjustified expenditures, and so on and so on. Incredibly, the Defense Department—your Defense Department, my Defense Department—is paying these charges, even though their own auditors are telling them that the charges are unjustified.

One example reported in the Wall Street Journal: Halliburton's Kellogg, Brown & Root charged taxpayers for dining facility services in Iraq and Kuwait. Pentagon auditors flagged $200 million of unsupported costs—that is a lot of money—$200 million of unsupported costs, but the Defense Department released $145 million in compensation to Kellogg, Brown & Root despite auditors' reservations and despite Halliburton's inability to justify the charge.

It is the taxpayers—you people out there watching through those lenses, those electronic lenses, watching the Senate floor, I am talking about you—it is the taxpayers, your constituents, Mr. President, my constituents, who are being charged for this tripe. It is they who must bear the costs of such rip-offs. It is your money.

Our constituents read in the newspapers how lucrative contracts are awarded without competition, how enormous rewards are handed to campaign donors. Mention the name Halliburton, and, as Fortune magazine quips, an image flashes in the public's mind of ''a giant corporation engaged in shameless war profiteering—charging outrageous prices to provide fuel for Iraqis and meals for American troops.''

Our constituencies, the people who send us here, are crying out for Congress to assume a stronger oversight role and to assure them, the people, that their moneys are being spent wisely. The amendment I have offered today does exactly that. My amendment requires the Defense Secretary to provide the Committee on Appropriations and the Armed Services Committee with a quarterly report that lists and describes questionable and unsupported contractor charges identified by Pentagon auditors for Iraq and Afghanistan. The amendment requires the Defense Secretary to withhold 100 percent of the payment for these charges and to assess a penalty by withholding an additional amount equal to 15 percent of the unsupported charge. If Pentagon auditors can verify the charges assessed by the contractor, that they are justifiable, then the Defense Secretary can release the payment.

My amendment is common sense. We ought not to be paying for services that have not been rendered. The American people ought not be paying for services that have not been rendered. The American people ought not be paying more than a fair market price. The American people ought not allow contractors to think they can hoodwink the American citizen and get away with it.

The American public is being asked to sacrifice to pay for this war. The President's budget cuts investments in education, in health care, in domestic priorities that impact every State of the Union in order to pay for these military and reconstruction activities. Congress ought to ensure—that is us—we ought to ensure that sacrifice is not wasted. We ought to slap the knuckles—and slap them hard—of any contractor, whether because of sloppy accounting or because of outright fraud, that results in the American taxpayer being bilked.

I urge my colleagues to support the amendment. I urge its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask my distinguished colleague from West Virginia if it would be in order to lay the amendment aside so I can send to the desk another amendment.

Mr. BYRD. I have no objection.

AMENDMENT NO. 499

Mr. WARNER. Mr. President, I send amendment No. 499 to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. NELSON of Florida, Mr. ALLEN, Mr. TALENT, Ms. COLLINS, and Mr. WARNER, proposes an amendment numbered 499.

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

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

The amendment is as follows:

(Purpose: Relating to the aircraft carriers of the Navy)

On page 169, between lines 8 and 9, insert the following:

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1122. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy by this Act, and by the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 954), an aggregate of $288,000,000 may be available only for repair and maintenance of the U.S.S. John F. Kennedy, and available to conduct such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(1) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(2) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to Congress that such agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers as are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

Mr. WARNER. I am joined by the distinguished Senator from Florida, Mr. NELSON, Senator ALLEN, Senator MARTINEZ, Senator TALENT, and Senator COLLINS. I am prepared to give my statement in support.

I see the Senator from Vermont.

Mr. LEAHY. Mr. President, if the Senator will yield, the Senator from California, Mrs. BOXER, and I are waiting to speak about the tragic death of Marla Ruzicka over the weekend in the form of eulogies. I don't want to interrupt the work of the distinguished senior Senator from Virginia, but when he is finished I am going to seek the floor—both Senator BOXER and I—to give the eulogies, which will not take a great deal of time, but they are important.

Mr. WARNER. I think the Senator is asking that he be recognized at the conclusion of the introduction of this amendment. Senator NELSON and I will be brief to accommodate our colleagues.

Mr. President, this amendment ensures that all necessary repair and maintenance be accomplished on the USS *John F. Kennedy* to keep that ship in active status. The amendment also requires the Navy to keep 12 aircraft

carriers until the later of several situations comes to the attention of the Senate and the Congress: 180 days after the next Quadrennial Defense Review is delivered to Congress, or the Secretary of Defense has certified to Congress the necessary agreements have been entered into to provide the port facilities for the permanent forward deployed aircraft carriers deemed necessary to carry out the mission in their area of responsibility.

The ship, the USS *Kennedy*, was scheduled to start overhaul this coming summer. There was $334.7 million authorized and appropriated in the fiscal year 2005 for that purpose. So none of the funds in the underlying bill in any way are garnered by this amendment.

In the last-minute budget cut in late December, the decision was made by the Department of Defense to defer maintenance and to decommission the *Kennedy*.

The Chief of Naval Operations testified before the Senate Armed Services Committee on February 10 of this year that all 12 aircraft carriers were in his original budget request. He stated, however, that ''this action was driven by guidance'' from the office of Management and Budget that ''led to the reduction of our overall budget.''

That repair and maintenance should go forward, starting this summer as originally planned. It is premature to decommission this ship, which was until this past December scheduled to remain in the fleet until 2018.

The great ship, the *John F. Kennedy*, returned from deployment on December 13, 2004. I understand the ship is in good shape. In fact, in the words of the battle group commander, whose flagship was the *Kennedy*, the ship returned from deployment in ''outstanding material condition.''

The primary analytical document on military force structure is the Quadrennial Defense Review, or QDR. The QDR is, in the end, a compilation of detailed analyses of what the Nation requires to execute the National Military Strategy.

I believe Congress should show restraint when it comes to making force structure decisions, and only do so in the context of the reports and the analyses produced by the Department of Defense and such other reports that may be relevant. In this case, however, the analyses that are available to us supports a force structure of 12 aircraft carriers, not 11.

I also believe that, at some point, the number of aircraft carriers matters. If the aircraft carrier is not where the President needs it to be when a crisis erupts, its capabilities, however awesome, are not very meaningful.

The deliberations on the next QDR have already begun, in accordance with the law, and it should be delivered by this time next year. It may show, with analytical rigor, that the number of aircraft carriers can be reduced. It may not.

Nowhere is naval power more important to the National Military Strategy than in the Pacific Command Area of Responsibility.

After retirement of the USS *Kitty Hawk* in fiscal year 2008, the *Kennedy*, if retained, would be the last remaining conventional aircraft carrier.

This amendment ensures we have the aircraft carriers necessary to keep this area of the world covered until such time that the QDR, the Global Posture Review, and other uncertainties have been resolved.

I ask my colleagues to support this amendment.

Mr. President, the CNO appeared before our committee here of recent.

Now I will yield to my distinguished colleague from Florida, who was present during the course of that testimony, to insert that part which was in open session, which I think we should share with our colleagues. Mr. President, I see the distinguished Senator from Florida, my principal cosponsor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, because Senator LEAHY is waiting to speak, I will make very brief comments. The comments to which the distinguished chairman of the Senate Armed Services Committee has referred is the Chief of Naval Operations saying it is absolutely essential that he have a carrier home ported in Japan. The fact is, as he projects his forces in the defense of our country in the Pacific area of operations, he needs a carrier in that region so if it has to respond to an emergency, say, off of the coast of Taiwan, it is within a day and a half of sailing to respond to the emergency instead of a week's sailing from a port on the west coast of the United States.

Now, how all this ties in to the *John F. Kennedy* is that we do not know at this point that the Government of Japan—since so much of this decision is influenced by the municipal government in the region of the port—is going to receive a nuclear carrier. Therefore, when the present, conventionally powered carrier, the *Kitty Hawk*, in Japan, is ready to go out of service in 2008, if Japan's posture is they will not accept a nuclear carrier, then we do not have another one that could replace it.

So what the distinguished chairman of the Armed Services Committee is suggesting in this amendment that many of us are sponsoring with him is to keep alive the *John F. Kennedy* through its drydocking, with the funds that have already been appropriated, the $335 million, of which there are some $287 million left, to go on through the overhaul process so we have it as a backup.

This, of course, also keeps us then with two major ports for carriers on the east coast so that all of our east coast carrier assets are not in one port. In this era of terrorism, that clearly is one of the lessons we should have learned way back in December of 1941 in the experience of Pearl Harbor: Keep your assets spread out.

I am very grateful to Senator WARNER, who has offered this amendment for the sake of the defense of our country. And for the sake of those of us who have been working this problem, we are very grateful in order to get this in front of the Senate so a policy decision can be made.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SESSIONS. Will the Senator from Vermont allow me the opportunity to offer an amendment? I do not know how long he will be speaking.

Mr. LEAHY. Mr. President, am I correct that the Senator from Alabama only needs a minute or so?

Mr. SESSIONS. Less than that.

Mr. LEAHY. Mr. President, I will withhold my recognition so he can do that.

Mr. SESSIONS. Mr. President, I thank the distinguished Senator.

The PRESIDING OFFICER. The Senator from Alabama is recognized to offer an amendment.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendments be set aside.

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

AMENDMENT NO. 456

Mr. SESSIONS. Mr. President, I call up amendment No. 456.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alabama [Mr. SESSIONS] proposes an amendment numbered 456.

Mr. SESSIONS. 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 provide for accountability in the United Nations Headquarters renovation project)

On page 183, after line 23, insert the following:

UNITED NATIONS HEADQUARTERS RENOVATION LOAN

SEC. 2105. (a) Notwithstanding any other provision of law, and subject to subsection (b), no loan in excess of $600,000,000 may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York.

(b) No loan may be made available by the United States for renovation of the United Nations headquarters building located in New York, New York until after the date on which the President certifies to Congress that the renovation project has been fairly and competitively bid and that such bid is a reasonable cost for the renovation project.

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

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

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

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent that the Senator from California, Mrs. BOXER, be recognized following me, and that the two of us be recognized as in morning business to speak about the tragic death this weekend of Marla Ruzicka.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

MARLA RUZICKA

Mr. LEAHY. Mr. President, I join my good friend, the Senator from California, in paying tribute to a remarkable young woman from Lakeport, CA, Marla Ruzicka.

There are times when we are called upon to give speeches such as this on the floor. They are never easy. Sometimes they are speeches given about somebody at the end of a long and full life. Here we are speaking about a young woman at the beginning of a life already full but with promise for decades to come.

Marla was the founder of a humanitarian organization called Campaign for Innocent Victims in Conflict which is devoted to helping the families of Afghan and Iraqi citizens who have been killed or suffered other losses, such as their homes destroyed, businesses destroyed, as a result of U.S. military operations. We know such suffering occurs no matter how careful the military may be.

But Saturday, Marla died in Baghdad. She died from a car bomb, a car bomb not directed at her but directed at a convoy. She was doing the work she loved and which so many people around the world admired her for. She was on her way to help somebody else. It was the case of being at the wrong place at the wrong time. But it was not unusual because she had risked her life so many times in Afghanistan and Iraq.

I met Marla 3 years ago when she first came to Washington. She was barely 26 years old. She had been in Afghanistan. She had seen the effects of the U.S. bombing mistakes that destroyed the homes and lives of innocent Afghan citizens. In one or two incidents, wedding parties had been bombed. In others, the bombs missed their targets and instead destroyed homes and neighborhoods.

I remember one incident she spoke of where every member of a family—16 people—was killed except a young child and that child's grandfather. These were the cases Marla spoke about. She spoke about them passionately because she felt passionately that the United States should help those families put their lives back together.

She met with me. She met in my office with Tim Rieser, who works on appropriations for me in the Foreign Operations Subcommittee. It did not take her long to convince either Tim or myself that she was so obviously right. We knew we not only had a moral responsibility to those people who had suffered because of the mistakes of the United States, we also had an interest in mitigating the hatred, the resentment toward Americans that those incidents had caused.

It was Marla's initiative—going to Afghanistan, meeting those families, getting the media's attention, coming back here and meeting with me and Tim and others—that led to the creation of a program that has contributed more than $8 million for medical assistance, or to rebuild homes, provide loans to start businesses, and provide other aid to innocent Afghan victims of the military operations.

From Afghanistan, Marla went to Iraq. She arrived, as I recall, a day or two after Saddam's statue fell. She and her Iraqi colleague, Faiez Ali Salem, who died at the same time, the same place as Marla, organized dozens of Iraqi volunteers to conduct surveys around the country of civilian casualties. Then she returned to Washington and again her efforts—I have to emphasize, her efforts, her personal efforts, her pounding on doors, her going person to person with her irrepressible energy—led to the creation of a program now known as the Civilian Assistance Program which has provided $10 million to the families and communities of Iraqi citizens killed by the U.S. and other coalition forces—another $10 million was allocated for this program last week—all by this happy, young woman you see depicted here, sitting with the people she helped.

To my knowledge, this is the first time we have ever provided this type of assistance to civilian victims of U.S. military operations. It would never have happened without the initiative, the courage, the incomparable force of character of Marla Ruzicka.

In my 31 years as a Senator, I have met a lot of interesting, accomplished people from all over the world, as all of us do—Nobel Prize recipients, heads of State, people who have achieved remarkable and even heroic things in their lives. I have never met anyone like Marla. She made sure we knew what she was doing and how we could help. Tim Rieser received an e-mail from her within an hour of the time she was killed. He sent it on to me during the middle of the night, Saturday night, with the photographs of Marla and the little girl she had helped.

I know how both my wife Marcelle and I felt, looking at those pictures, knowing we would never see another. There are so many stories about her, and some of them are being recounted now in the hundreds of press articles that have appeared in just the past 48 hours.

One story I remember the day after Marla arrived in Washington from Kabul. She had heard there was a hearing in the Senate where Secretary Rumsfeld and General Franks were going to testify. Thinking, perhaps a bit naively, that they might talk about the problem of civilian casualties, she decided to go hear what they would say. After the hearing was over, obviously disappointed that the issue she cared so deeply about hadn't even been mentioned, Marla walked straight up to Secretary Rumsfeld at the witness table and started talking to him.

He heads down the hallway; she heads down the hallway with him. I can imagine what the security people felt. She followed him right outside to his car, and she did not stop talking to him about the families of civilians she had met who had been killed and injured and the need to do something to help them.

Anybody who knew Marla can see that. Secretary of Defense? Secretary of State, Senator, it didn't make any difference. She had a story to tell and, by golly, you were going to hear that story. You could run down the hall, you could go to the elevator, but you were going to hear her story. She was not someone who was easy to say no to.

Not easy? It was almost impossible to say no to her. That was not simply because she was insistent. We all have insistent people who come to our offices. We have all developed ways to say no. But in her case, she was not just insistent, she was credible. She had been there. She knew what the war was about. She had seen the tragic results, and she was not about blaming anyone. She wasn't there to blame others. She just said: Look, there are people who need help. I want to help in whatever way I can.

That is what made it different. She saw her work as part of the best of what this country is about. It was the face of a compassionate America she believed in. She wanted the people of Afghanistan and Iraq to see the face of the America she believed in, a compassionate, humanitarian face.

It took time for some of us to realize she was not just a blond bundle of energy and charisma, which she was, but she was also a person of great intellect and courage who realized she wanted to help more victims. It wasn't enough to protest; that you can do easily. She needed to work with people who could help her do it. Of course, that meant the Congress, the U.S. military, the U.S. Embassy, the press, everybody else involved. She understood that. So she put aside politics and focused on the victims. But she made sure the Congress, the U.S. military, the U.S. Embassy and the press and everybody else heard from her. It didn't take long before the U.S. military saw the importance of what she was doing and they started to help. There were several civil affairs officers with whom Marla worked as a team. She would find the cases. They would arrange for the plane to airlift a wounded child to a hospital or some other type of assistance. She became one of our most beloved ambassadors because she was doing what our ambassadors want to do—put the good face, the humanitarian face, the loving and caring face of America first and foremost.

I think one of the reasons so many people around the world feel Marla's loss so deeply is because we saw how important her work was, and that meant taking risks the rest of us are unwilling take. In a way, she was not only helping the families of Iraqi war victims; she was also helping us, until she finally became an innocent victim of war herself. Yesterday, my phone rang so many times, people calling from Baghdad, calling me at home. Every one of them had a different story of something she had done, some way in which she had made somebody's life different. She has been called many things: an angel of mercy, a ray of sunshine in an often dangerous and dark world.

One person who knew her well described Marla as being as close to a living saint as they come. I suspect that is how many of us feel. She probably didn't feel that way herself. Many of us feel that way.

I don't think I have ever met, and I probably will never meet again, someone so young who gave so much of herself to so many people and who made such a difference doing it. Our hearts go out to her parents, Cliff and Nancy. I talked to her father yesterday. I said: Think how much she did in her short lifetime, more than most of us will get to do in a lifetime. But I thanked them for having the courage to let her be the person she wanted to be—not that I suspected anybody could have stopped her from being what she wanted to be.

One of the articles talks about her going to a checkpoint and the guard stopping her and she didn't have the proper papers. She stuck her head forward and pulled back the scarf. They saw the blond hair. She started talking to them about why she had to go here and there. Next thing you know, she is being sent on her way.

So our job is really to carry on the work Marla started not just in memory of a wonderful and heroic young woman, although that should be enough reason, but because the work is so important. That is what I am committed to. I know I will work with my friend from California to honor Marla in that way. I think it would be safe to say to my friend from California, I suspect there will be others in this Chamber who will do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I thank Senator LEAHY, from the bottom of my heart, for his words about this extraordinary young woman; more than that, to him and his staff for believing in her. That took a leap of faith, that a woman so young could come in and present as compelling a case as she did.

Of course, she went right to the Senator, that is for sure, because of the work he has done for human rights in the world. She knew what she was doing. But you heard her and Tim and you rolled up your sleeves and created a program that the entire Senate backed and the entire Congress backed to help the innocent victims of war—those who are unfortunately sometimes called ''collateral damage''; we have names for that.

Clearly, what Marla did, by recognizing that these people needed help, she was doing God's work. But she also, as the good Senator pointed out, was helping the United States of America because we are in the battle for the hearts and minds of the world. Marla understood that.

AMENDMENT NO. 444

Mrs. BOXER. Before I make further remarks, I ask unanimous consent that the pending amendment be temporarily laid aside so I can call up amendment No. 444.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself, and Mr. BINGAMAN, proposes an amendment numbered 444.

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

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

The amendment is as follows:

(Purpose: To appropriate an additional $35,000,000 for Other Procurement, Army, and make the amount available for the fielding of Warlock systems and other field jamming systems)

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading ''OTHER PROCUREMENT, ARMY'' is hereby increased by $35,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OTHER PROCUREMENT, ARMY'', as increased by subsection (a), $60,000,000 shall be available under the Tactical Intelligence and Related Activities (TIARA) program to facilitate the rapid deployment of Warlock systems and other field jamming systems.

Mrs. BOXER. My amendment would increase funding for jamming devices that would deactivate roadside bombs. They are one of the leading causes of the casualties in Iraq.

Mr. President, I will get back to the tribute I want to give to Marla. I thank Laura Schiller, my staff member, who is sitting here with me. She helped me put together these remarks. She was a friend of Marla's, and it was very hard for her to get through writing these remarks.

This morning, in northern California, where I was—I just got here—the people woke up to the San Francisco Chronicle's front page. It is this magnificent picture of Marla and a little girl she helped, along with an Iraqi woman who had clearly also been working with this little child.

It is interesting because on either side of this beautiful photograph of Marla and this little girl are two very negative stories about the world we live in—Medicare fraud and oil companies trying to lower their taxes in light of their highest profits ever—and it just spoke to me about Marla because there she was in the middle of all these negative forces, the worst kinds of negative forces—war, hatred, sectarian violence, all these things, there she was right in the middle, something good for us to cling to.

My heart breaks for Marla's family and her friends. Some of them were here, so many whose lives she touched. One of Marla's friends was my daughter Nicole who called me with the news of Marla's death on Saturday night. It was hard to understand her at first, so heavy were her tears. Between sobs, she told me Marla had been killed along the treacherous road leading to the Baghdad airport. It was a road so dangerous that when Senators travel there—and I just got back from there a couple weeks ago—they don't go on that road. Instead, they go on a Blackhawk helicopter and speed through a city with machine guns on either side looking down to the ground. It is a road so dangerous that even limited protection costs thousands of dollars—tens of thousands of dollars just to go one way on that road, if you were to hire people to help protect you. That is how dangerous it is.

Who among us would have found the courage to travel on that road on Saturday, or the road that Marla had traveled during her courageous, committed, and very short life? Who among us can say we have spent so much of our lives serving other people in the way that truly makes a difference? How many 28-year-olds can say that?

Imagine, in this the most powerful and greatest country in the world, it was this remarkable woman who went door to door counting Iraqi civilian victims, when nobody else would. It was this young woman who lobbied the Senate for assistance for these families, and we heard from Senator LEAHY about how incredible she was when she made the case. She risked her own life to make sure they received the support they deserved.

''Marla was something close to a saint,'' one friend wrote this morning, ''but a very realistic saint.'' I personally met Marla for the first time recently when she and her mother came to my home in California to celebrate an occasion for my daughter. When Marla walked through our front door with her mom, she had an infectious smile, and my daughter's face lit up. ''This is the amazing woman I've been telling you about, Mom,'' she said.

This is how it always was for the thousands around the world lucky enough to call Marla a friend. It didn't matter if you lived in the streets of Baghdad or the dusty villages of Afghanistan or the corridors of power in

Washington, DC. It didn't matter whether you knew Marla. She would come up to you and you would feel as if you had known her for a lifetime.

She treated every conversation as a chance to tell you about the righteousness of her cause, and she treated everyone with the same respect, openness, and unconditional love.

We so often hear:

And now three remain: faith, hope, and love. But the greatest of these is love.

My office was flooded today with e-mails and phone calls from the people whose lives were touched by Marla's faith, hope, and love. Everyone has a story to tell, and I brought a few photos to share with you because words are not enough.

In this photo she sent hours before her death, we see her holding tightly an Iraqi child who was thrown from a vehicle just before it was blown up in a rocket attack. The child's entire family was killed. Marla saved that child.

Here we see one of the countless civilians brutally injured and now beaming and healthy next to the person, Marla, who helped her heal.

We see Marla's trusted Iraqi colleague, Faiz, whom she wrote, ''was sent to me by angels from the sky.'' He worked tirelessly beside her, and he died bravely beside her.

And we see this beautiful, vibrant, young woman, red scarf around her neck, surrounded by the soldiers she befriended and entreated in her quest to help Iraqi civilians. Senator LEAHY made the point that everyone wanted to help Marla—everyone. The U.S. military wanted to make up for the damage that was caused. They desperately wanted to do that, but they needed someone who could give them accurate information, and she did that.

Inside the green zone—

One friend wrote last night—

she would encourage military officers and U.S. officials to hug each other—just to remember that they were still human, and reward them with a big smile if they actually did it.

There are many other pictures that her friends wanted to share of a woman who was a great friend to all and a beloved Ambassador for the United States at a time when our actions may not be so popular.

There were images of the notes she sent, when their spirits were at their lowest, telling them how beautiful they are, how much their work mattered, how much she cared.

I think we are going to leave this picture up because it is exquisite. There are other pictures of Marla sleeping on the floor for nights on end so she could use her limited resources to help Iraqi victims. Behind her happy-go-lucky demeanor, there was a picture of an effective advocate cornering a Defense Secretary, a general, or, yes, a U.S. Senator, and refusing to go away until our country helped care for the innocent victims of war.

There was a picture of the room full of journalists waiting that last night for their host to show up for another party she had planned to buoy their spirits, and no doubt try to persuade them to write about the victims she saw suffering terrible damage—not collateral damage but critical damage.

A few days before she died, Marla wrote her own op-ed for the Washington Post. She talked about her most recent discovery—that the U.S. military was counting Iraqi civilian casualties in some places, despite its claims to the contrary. She ended with these words:

. . . To me, each number is a story of someone whose hopes, dreams, and potential will never be realized, and who left behind a family.

The same can be said of Marla. Her hopes, her dreams, and her potential will never be realized, and she left behind a family. In all the years I have lived, I do not know too many people who have made an impact the way she has in those 28 short years. But I guarantee you, if Marla were here, she would not want us to weep, she would not want us to hide our heads. She would want us to keep fighting for the people and causes she had championed even before she was old enough to drive a car. She would want us to remember the words of encouragement and action she sent constantly to friends and colleagues. Once she wrote, ''Their tragedies are my responsibilities,'' and now her work must be ours.

I hope a message goes out to the suicide bombers to stop what they are doing, to stop it now, and to those who would put together these roadside bombs to stop it now because everyone who is injured by this—everyone—has hopes and dreams and families and potential.

So her work must be ours. She was the voice of these victims to whom no one seems to pay much attention. We need to be her voice now.

''And now these three remain: Faith, hope and love: But the greatest of these is love.''

Mr. President, may we join the grieving Ruzicka family and thousands around the world in paying tribute to a young woman of great faith, hope, and love by finishing the work she so courageously began and by working to make sure this war will soon come to an end.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mrs. LINCOLN. First, I commend my colleagues from California and Vermont for recognizing such a remarkable woman, someone who represents everything that is good and peaceful about America and who set an example in such a tumultuous time and place but clearly giving all of the love she had to give at a time when it was needed the most. I thank my colleagues for taking the time to recognize that.

AMENDMENT NO. 481

Mrs. LINCOLN. Mr. President, I ask unanimous consent to lay aside the pending amendment, and I call up amendment No. 481.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mrs. LINCOLN] proposes an amendment numbered 481.

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

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

The amendment is as follows:

(Purpose: To modify the accumulation of leave by members of the National Guard)

On page 169, between lines 8 and 9, insert the following:

ACCUMULATION OF LEAVE BY MEMBERS OF THE NATIONAL GUARD

SEC. 1122. Section 701(a) of title 10, United States Code, is amended by adding at the end the following new sentence: ''In the case of a member of the Army National Guard of the United States or the Air National Guard of the United States who serves on active duty for more than 179 consecutive days, full-time training or other full-time duty performed by such member during the 5-year period ending on the 180th day of such service under a provision of law referred to in the preceding sentence, while such member was in the status as a member of the National Guard, and for which such member was entitled to pay, is active service for the purposes of this section.''.

Mrs. LINCOLN. Mr. President, I rise today to offer an amendment of great importance to the returning guardsmen and reservists in my home State and in many other States. I think many of my colleagues, in understanding what I am trying to do, will agree that it is the right approach and the right thing to do for the men and women from our States who have done such an incredible job serving our Nation in Iraq and on behalf of not just Americans but the Iraqi people.

When our soldiers return home, some of them are finding they might only have a week or less before they are expected to reenter the workforce and return to civilian life. It is confusing at best to know with what they are going to be faced. The price of gasoline has gone up tremendously since they deployed almost 2 years ago. They have seen a lot of changes in their communities, perhaps changes in their work, changes in their families, the loss of loved ones, certainly the growing of their little biddies. But many of the soldiers of Arkansas's 39th Infantry Brigade found they had absolutely no leave left when they returned to our home State of Arkansas. This left them with very few options other than to return to work immediately or, in some cases, to begin looking for work immediately, within a week of when they returned to their home soil.

These soldiers had just spent nearly 18 months in Iraq, risking their lives to defend the freedoms we cherish as Americans. They witnessed scenes of tragedy and violence they never expected to encounter but willingly accepted as part of their mission in service of this great Nation. It is part of

our job as legislators to make sure they are taken care of when they return home, that we honor their sacrifices, their duty, and their courage. We are not doing our job if soldiers are forced to return to civilian life within a week of returning home from theater.

I have been out to Walter Reed, as have many of my colleagues, and seen our soldiers recovering from horrific wounds suffered in this conflict. One of the soldiers from Arkansas had taken a rocket-propelled grenade directly to his chest. You would not have known it, though, from talking to him. He was proud of the work he and his fellow soldiers had been doing in Iraq. He missed his unit and was ready to return to them and finish the rebuilding process they had begun.

As I left his room, one of the nurses approached one of my staffers and said that while many of the soldiers were doing very well, she was very concerned for them once they got back to their homes, into their communities, trying to readjust themselves to a way of life from which they had been absent while they were in Iraq, while they were experiencing events that oftentimes only they could think of in their own hearts.

Many of them underwent daily therapy sessions where they discussed these experiences with their fellow soldiers. Unfortunately for our guardsmen and reservists, they do not come back to a base where they are surrounded by people who have had a similar experience, people to whom they can talk, people with whom they can empathize, those who can understand the unbelievable circumstances and situations they experienced in Iraq.

The nurse was also concerned that what they were receiving in the hospital there would all end once they returned to their hometowns—the therapy, the discussions, certainly the medical treatment.

Imagine you are a soldier who, thankfully, has made it home from Iraq or Afghanistan without serious injury, the joyousness of coming home to your home, to your family, to your community, and upon returning to a pace of life 180 degrees from anything you have witnessed within the last year and a half, you are expected to turn on a dime and adjust immediately to the world you left behind. This is a great injustice and one that cannot be ignored.

My amendment is very simple. It would allow a guardsman to accrue bonus leave when he or she was placed on active duty for 6 months. This would give guardsmen more leave by altering how training days for the National Guard and Reserve are counted for the purposes of determining their leave. Currently, any training less than 29 consecutive days does not count toward accruement of leave.

This amendment would change current policy when a guardsman is placed on active duty for a period of 180 consecutive days. Upon that 180th consecutive day of active duty, all previous days spent training in the past 5 years, no matter their duration, would be counted for the purpose of determining how many days of leave the guardsmen would have. This would effectively give the guardsmen and reservist a bonus period of leave when they were deployed for longer than 6 months.

The look-back period for determining the new leave, as I mentioned, would be capped at 5 years. This would prevent substantial disparities in accrued leave from occurring between a guardsman with 20 years of service and a guardsman with only 3, perhaps.

We must do all we can to ensure our guardsmen are given every opportunity to readjust to life outside of the combat zone. When they return to our arms, we must embrace them and give them the time and the elements they need to readjust themselves. For some, it may be as simple as getting their finances back in order or perhaps spending time with their spouse or their children or their extended family. Maybe it is getting re-equipped back in their household or in their community. Maybe it is getting re-engaged, remembering those people who surround them who can provide them the unconditional love and support they need to put behind them the experiences they may have had, so they can look forward and be proud of the service they have given and know their country embraces them.

For others, it may be more difficult. Either way, they deserve an opportunity to deal with these issues without having to worry about returning to or finding work in order to put food on the table so soon after giving so much in service to this great country.

Our guardsmen found themselves in two circumstances where they were given passes, but were required to take leave when they have returned now from that 180-plus days of service, of giving their heart and soul to make sure the freedoms we enjoy are protected.

We should do all we can to make sure as they come back into our American communities, they come back into their families, they can do it with dignity and the support of this great country and the military service they have served.

I urge the Senate to adopt my amendment. I ask my colleagues to take a look at it. I think it is very simple and something we could do without much folderol. We could get it done and make sure all these soldiers are well taken care of.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to talk a little bit regretfully about the issue of immigration—regretfully, because the supplemental Defense bill that came out of the House of Representatives included the issue of immigration and therefore has opened it up for discussion here in the Senate.

Tonight I rise in support of the Craig amendment which will enact important reforms to the H–2A program that will help ensure Ohio's agricultural industry remains strong and vibrant. That has a lot to do with immigration.

Agribusiness is the largest industry in the State of Ohio, contributing $73 billion to our economy each year. I would like to keep it that way. My State ranks sixth nationally in the production of nursery and greenhouse crops, with a value of over a half billion dollars. We grow almost a quarter of a billion dollars worth of fruits and vegetables each year.

I want to stress how important these businesses are to Ohio and how vulnerable they are. These industries live and die in a very competitive marketplace, and having a stable and sufficient workforce is vital to their competitiveness in the global marketplace. Unfortunately, right now they have a major labor crisis. Without the guest workers who are essential to getting work done during peak seasons, agribusiness in Ohio as well as the rest of the country simply would not have the workforce necessary to do their work and their customers would have to look elsewhere, very likely to overseas businesses for agricultural products.

I am told in the early 1990s our Nation exported twice the value of nursery and greenhouse crops to Canada than we imported. In the last decade, Canada has overtaken us, and now the numbers have reversed, adding to our Nation's trade deficit. I would like to note that our neighbor, Ontario, has a very good guest worker program.

If we offshore our fruit, vegetable, nursery crops, and other production to Mexico and Canada, think of what we lose. We lose control of our food supply, and you know that is a national security issue. We lose jobs, and not just farmworker jobs. Agricultural economists tell us each farmworker job in these industries supports 3½ jobs in the surrounding economy: processing, packaging, transportation, equipment, supplies, lending, and insurance. They are good jobs, filled by Americans. We lose them if we do not do this the right way.

Work in these industries in Ohio is seasonal, demanding, and out in the weather. Many of our producers have tried to use the existing H–2A program. This is especially true of our nursery, sod, and Christmas tree growers. They represent 79 percent of the H–2A use in Ohio.

The program is expensive, bureaucratic, and a litigation nightmare—that is the current program. The program is failing and it needs fixing. Many agricultural employers would like to use the program but do not because of the uncertainty associated with the program. Not having access to legal, timely workers hurts these businesses. Crops are lost because workers are not available for the harvest. I understand from my colleague Senator CRAIG that out in California lettuce is

rotting in the field because there are not workers there to pick it.

Many of my H–2A-user growers and producers have been closely involved in the negotiations of AgJOBS, the amendment before us. They know immigration and guest worker reform cannot be a partisan undertaking. They have been creative and determined in finding common ground and producing bipartisan legislation. Their survival depends on this Senate passing AgJOBS.

The toughest issue is what to do about the trained and trusted farm workforce, 70 percent or more working without proper documents. Their labor is critical to Ohio and America. These farmworkers are hard-working, law-abiding people. They are paying Federal and State taxes and Social Security. They are part of the fabric of our society already in so many ways.

AgJOBS allows them to come forward and rehabilitate their status over time through the time-honored values of hard work and good behavior. The failure of this country to create a practical agricultural guest worker program has forced most of the country's agribusiness to live between a rock and a hard place. It has been said our farmers have one foot in jail and the other in the bankruptcy court. Every day, each time my constituents open the door in the morning, they know this much, if and when the Government decides to get serious about Social Security mismatch letters, about enforcement, it is all over.

They tell me: We are following the law in our hiring. Yet we know if Immigration enforcement came in tomorrow, our business would be irreparably damaged. My constituents and yours could lose their workforce tomorrow.

Some of my colleagues are critical of this legislation because they claim it provides amnesty. I disagree. Amnesty is an unconditional pardon to a group of people who have committed an illegal act, and Webster's Dictionary agrees that is the definition. There is nothing unconditional about the path to rehabilitation provided in AgJOBS. To earn adjustment to legal status, a worker must have worked in U.S. agriculture before January 1, 2005. Accordingly, this legislation imposes conditions on obtaining adjustment to legal status, including, more importantly, a work history.

These are people who have worked in the United States, many of them for many years. A lot of them are not legal. What this legislation does is it provides an opportunity for them to become legal, after supporting certain conditions.

If you believe that any forgiveness at all constitutes amnesty, then every serious proposal that comes forward to solve this problem will be amnesty. But in the end, isn't the worst amnesty of all the status quo? Ignoring and tacitly condoning this problem will not provide a solution. It has been going on too long. Let us take a step forward now toward reconciling our laws with reality.

This legislation will help illegal immigrants working in agriculture to come clean and become part of our legal workforce, allowing this country to focus its efforts on more serious immigration problems. Furthermore, providing a means for such workers to obtain legal status provides a real incentive for them to participate in this program.

I read a portion of a letter Senator CRAIG and Congressman CANNON received from Grover Norquist, chairman of the Americans for Tax Reform. He said:

I'd like to take this opportunity to commend for you the introduction of S. 1645 and H.R. 3142. The AgJOBS bill is a great step in bringing fundamental reform to our Nation's broken immigration system. AgJOBS would make America more secure. Fifty to seventy-five percent of the agriculture workforce in this country is underground due to the highly impractical worker quota restrictions. Up to 500,000 workers would be given approved worker status screened by the Department of Homeland Security and accounted for while they are here. Any future workers coming into America looking for agriculture work would be screened at the border where malcontents can most easily be turned back. The current H2–A agriculture worker program only supplies about 2 to 3 percent of the farm workforce.

It goes on to say:

Workers that are here to work in jobs Native Americans are not willing to do must stay if food production is to remain adequate. However, those already here and new workers from overseas should have a screening system that works, both for our States' safety and for their human rights. Your bill does just that.

Mr. President, I would also like to point out that AgJOBS is endorsed by a historic bipartisan coalition of 500 and counting, national, State, and local organizations, including 200 agricultural organizations representing fruit and vegetable growers, dairy producers, nursery and landscape, ranching and others, as well as the National Association of the State Departments of Agriculture; that is, the national association of all of the 50 States' agriculture departments have come forward to support this. There is bipartisan support of this legislation by elected and appointed State directors of agriculture.

Yesterday I received a letter from Ambassador Clayton Yeutter. Clayton Yeutter has been a tireless advocate for American agriculture. You will remember that he served as Secretary of Agriculture under Ronald Reagan and as U.S. Trade Representative under George H.W. Bush. In his letter, he started out by saying:

History demonstrates that there are moments in time when special opportunities arise for political action that successfully addresses multiple challenges. Today is one of those occasions.

I agree.

He went on to describe the substance and the partisanship of the AgJOBS bill.

He ended as follows:

As President Bush has stated, we can and must do better to match a willing and hard-working immigrant worker with producers who are in desperate need of a lawful workforce. It is in our country's best interest to enact these reforms and reap the harvest of political action at a special moment in time.

That is what our President had to say.

Again, I agree.

I stand ready to take a first and most important step on this difficult issue that has plagued this Nation for too long.

As I stated, I would have preferred that immigration would not have been a part of this legislation that is before us. But as I mentioned, it came before us because of the fact that the House decided to make immigration a part of the emergency supplemental bill.

Those of us who have been concerned about immigration are taking this opportunity to clearly state what we think needs to be done. I am hopeful that tomorrow 59 of my colleagues will vote for cloture so we can get on and deal with this issue and bring the relief to thousands of people, thousands of businesses, and agribusiness in this country.

I yield the floor.

Mr. INHOFE. Mr. President, Edmundo Garcia said he had heard that the new Bush immigration plan, which would grant work visas to millions of illegal immigrants inside the United States and to others who can prove they have a job, was 'amnesty,' and he wondered why he was arrested.''

He said he would try to cross [the border from Mexico to the U.S. through the Sonoran Desert] again in a few days.

This quote from the New York Times on May 23, 2004, shows just how bad things have gotten since the administration's initial immigration policy proposal was announced.

The New York Times article goes on to say:

Apprehensions of crossers in the desert south of Tucson have jumped 60 percent over the previous year.

Nearly 300,000 people were caught trying to enter the U.S. through the desert border since last October 1st (that's October 2003).''

It continues:

After a four-year drop, apprehensions which the Border Patrol uses to measure human smuggling are up 30 percent over last year along the entire southern border, with over 660,000 people detained from October 1st through the end of April.

There are an estimated 8 to 12 million illegal immigrants in this country, with about 1 million new illegal aliens coming into this country every year. Legal immigration is even at unprecedented levels about five times the traditional levels. We now have about 1.2 million legal immigrants coming into this country each year, as opposed to an average of about 250,000 legal immigrants before 1976.

S. 359, the AgJOBS bill, could offer amnesty to at least 800,000 more illegal

aliens, and if they all bring family members, which they would be eligible to do, it could be up to 3 million more, according to Numbers USA.

I greatly respect my friend and colleague, the Senator from Idaho, Mr. CRAIG, and I understand he has many cosponsors for his bill, but I firmly believe S. 359 has some major flaws and is not the way to remedy our problem with illegal immigration.

Even though there are certain criteria these illegal aliens must meet to qualify for temporary work status and eventual citizenship under this bill, it still rewards them by allowing them to stay in this country and work rather than penalizing them for breaking the law this is amnesty.

I also agree with my colleague from Texas, Senator CORNYN, the chairman of the Immigration Subcommittee, who said in Tuesday's Congress Daily when asked about the supplemental bill H.R. 1268, said that he did not want it to ''be a magnet for other unrelated immigration proposals . . . regular order is the best way. . . .''

I agree with my colleague and think we should focus on the supplemental and debate immigration reform separately.

Furthermore, in section 2, paragraph 7, the AgJOBS bill defines a workday as ''any day in which the individual is employed one or more hours in agriculture.''

In order for an alien to apply for temporary work status, section 101, subsection A, subparagraph A states that the aliens ''must establish that they have performed agricultural employment in the United States for at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months. . . .''

So if a workday is defined as working at least 1 hour and the alien only has to work 100 work days in a year to qualify for temporary status under the AgJOBS bill, then illegal aliens only have to find some kind of agricultural work, and not necessarily be paid, for 100 hours, or merely 2 weeks, in a year in order to stay temporarily, while robbing Americans of these jobs.

An article from May 18, 2004, by Frank Gaffney, Jr., from the Washington Times entitled ''Stealth Amnesty'' states that once an illegal alien has established lawful temporary residency, ''they can stay in the U.S. indefinitely while applying for permanent resident status.''

''From there it is a matter of time before they can become citizens, so long as they work in the agricultural sector for 675 hours over the next 6 years.''

Furthermore, in referring to the REAL ID Act, which was attached to the supplemental in the House, and I believe is true reform, another article from the week of April 6, appeared in the Washington Times stating:

. . . REAL ID is a bill that will strengthen homeland security, while Mr. CRAIG's AgJOBS bill will not.

One more article in the Washington Times, again by Frank Gaffney, Jr., from April 5 refers to the REAL ID Act as well as AgJOBS says:

The REAL ID legislation is aimed at denying future terrorists the ability exploited by the September 11, 2001, hijackers namely, to hold numerous valid driver's licenses, which they used to gain access to airports and their targeted aircraft.

It is no small irony, therefore, that the presence of the REAL ID provisions on the military's supplemental funding bill is being cited by the Senate parliamentarian as grounds for Senator Larry Craig, Idaho Republican, to try to attach to it legislation that would help eviscerate what passes for restrictions on illegal immigration.

The article continues:

The agriculture sector of the US economy needs cheap labor.

So let's legalize the presence in this country of anyone who can claim to have once worked for a little more than three months in that sector.

We must not reward lawbreakers especially while we have so many people coming to this country legally.

Last summer, I had an intern in my office from Rwanda. She fled during the genocide in 1994. She then came to this country as a refugee and became a legal permanent resident. It took her a year to get all her paperwork for becoming a legal resident and she will probably have to wade through similar bureaucracy to become a citizen as well. It frustrates me that people like her follow the rules and have to wait in the lines and wait for all the paperwork to be processed, while the illegal aliens can sneak into our country, and then, if they do apply for legal status, they slow down the process for those who came here legally. Not only does AgJOBS reward lawbreakers, it also robs many Americans of jobs they are willing to do.

Roy Beck from Numbers USA in his testimony on March 24, 2004, before the Subcommittee on Immigration, Border Security and Claims, quoted Alan Greenspan from February of last year as saying that America has an ''oversupply of low-skilled, low-educated workers.'' In fact, according to Mr. Beck's testimony, the Bureau of Labor Statistics reports that the number of unemployed Americans includes a majority of workers without a high school diploma.

Basically, we have a great supply of lower educated American workers without jobs, while ironically, the main purpose of the AgJOBS bill is to bring in low-educated, low-skilled foreign workers for jobs that these Americans are able and willing to fill.

A recent article from March 31 of this year in the San Diego Union-Tribune entitled ''Importing a Peasant Class'', written by Jerry Kammer, emphasizes this point by saying:

Nearly two decades after a sweeping amnesty for illegal immigrants [referring to the 1986 Amnesty] gave Gerardo Jimenez a ticket out of a San Diego County avocado orchard, he worries that the unyielding tide of low-wage workers from Latin America might pull the economic rug out from under his feet.

Jimenez, who is from Mexico and supervises a drywall crew that worked all winter remodeling an office building three blocks from the White House says, ''There are too many people coming.''

The article goes on to say:

Jimenez's concern reflects an ambivalence about immigration among established immigrants in America.

It also challenges a key assumption of President Bush's proposal for a massive new guest-worker program: that the United States has a dearth of low-skill workers.

This is not true, we do not have a dearth of low-skill workers.

Not only does S. 359 keep able Americans from performing these jobs; it also drives down wages and stifles innovation and technology for these jobs.

The same San Diego Union-Tribune article I just quoted from continues saying:

In Atlanta, house painter Moises Milano says competition for jobs is so stiff among immigrants that house painters' wages have been flat since he came to the United States in the late 1980.

They're still $9 an hour, he said, which would mean they've actually fallen significantly when adjusted for inflation.

And yet many more aspiring house painters arrive every day from Latin America.

Similar concerns can be heard throughout low-wage industries that Latino immigrants have come to dominate during recent decades, including housekeeping, landscaping, janitorial, chicken processing, meat packing, restaurants, hotels and fast food.

The article goes on to say:

Jimenez says his company competes for contracts against subcontractors using illegal workers who are prepared to work for less and who don't expect health insurance, overtime or other employment benefits.

''It puts pressure on his employer to cut labor costs, he said.''

Jimenez explains why the migrants come and how it hurts current immigrants: ''The migrants come because of hunger, because of necessity . . . but I would benefit if someone imposed order,'' he says. ''My work would be worth more.''

Jimenez says that he won't be able to compete with companies that hire illegal workers so that they can pay lower wages.

Not only are workers like Jimenez facing tough competition from companies who hire illegals, but a GAO study from 1988 found that other fields, such as cleaning office buildings, were also experiencing lower wages and more competition as a result of foreign workers.

Cleaning office buildings used to pay a decent wage, however as more foreign workers entered the field, wages, benefits and working conditions began to collapse.

Other labor-intensive fields, such as the construction and the meatpacking industry, have also experienced a drop in pay after an influx of foreign workers. By allowing employers to flood the

labor market with foreign workers in these sectors, wages and working conditions have gone down drastically and made these jobs much less attractive to American workers; while making them much more attractive to alien workers.

As for stifling technological advances, according to a February 9, 2004, article appearing in National Review:

the huge supply of low-wage illegal aliens encourages American farmers to lag technologically behind farmers in other countries.

The article continues:

Raisin production in California still requires that grapes be cut off by hand and manually turned on the drying tray.

In other countries, farmers use a labor-saving technique called drying on the vine.

A cutoff of the illegal-alien flow would encourage American farmers to adopt many of these technological innovations, and come up with new ones.

Another, and possibly more important problem with S. 359, is the risk it poses to our homeland security. It has some of the same loopholes that the 1986 Immigration Reform and Control Act, IRCA, contained.

It also overwhelms the already burdened immigration system, not to mention that there are no criminal or terrorist records for these people. For example, an Egyptian illegal immigrant named Mahmud Abouhalima came to America on a tourist visa in 1985. The visa expired in 1986, but Abouhalima stayed here, working illegally as a cab driver.

Abouhalima received permanent residency, a green card, in 1988, after winning amnesty under the 1986 IRCA law. Although he had never worked in agriculture in the United States, Abouhalima acquired legal status through the special agricultural workers program—which is essentially what the AgJobs bill does. Once he had become legalized, Abouhalima was able to travel freely to Afghanistan. He received combat training during several trips there. Abouhalima used his amnesty/legalization and his terrorist training as a lead organizer of the 1993 plot to bomb the World Trade Center and other New York landmarks.

The special agricultural worker amnesty program enacted as part of the 1986 Amnesty saw many ineligible illegal aliens fraudulently apply for, and successfully receive, amnesty. Up to two-thirds of illegal aliens receiving amnesty under that program had submitted fraudulent applications, just like Abouhalima. We cannot afford to allow ourselves to be vulnerable to terrorists by allowing these people to stay in our country. I want to work with my colleague to address this problem of illegal immigration.

Over the last century, several Presidential and congressionally mandated Commissions including the 1907 Roosevelt Commission on Country Life to the 1990 Barbara Jordan Commission on Immigration Reform have been appointed to study immigration to the United States. These seven Commissions each possessing different mandates, membership makeup, studies and historical context in which their work was performed had some similar findings including: U.S. policy should actively discourage the dependence of any industry on foreign workers.

Dependence on a foreign agricultural labor force is especially problematic because of the seasonal nature of the work, which leads to high un- and under-employment and results in the inefficient use of labor.

Strict enforcement of immigration and labor laws is the key to a successful immigration policy that benefits the nation. Unfortunately, AgJOBS violates each of these principles.

It ensures the dependence of the agricultural industry on foreign workers by eliminating any possibility that wages and working conditions in agriculture will improve sufficiently to attract U.S. workers, whether citizens or lawful permanent residents.

AgJOBS actually reduces wages statutorily by freezing the required wage rate for new foreign workers, known as H–2A nonimmigrants, at its January 1, 2003, level for 3 years. In Oklahoma it is currently $7.89.

It also actually discourages agricultural employers from pursuing innovations, such as mechanization, that would reduce their reliance on seasonal labor.

AgJOBS guarantees employers an ''indentured'' labor force for at last the first 6 years after enactment. Employers can pay as little as minimum wage while the newly amnestied workers have no choice but to accept whatever the employer offers them since they are required to continue working in agriculture in order to get a green card.

Additionally, AgJOBS requires the American taxpayer to foot the bill for maintaining this large, seasonal workforce by allowing: Illegal aliens who apply for amnesty under AgJOBS to receive taxpayer-funded counsel from Legal Services Corporation to assist them with filling out their applications; the amnestied aliens to be eligible for unemployment insurance benefits if they are unable to find other unskilled work during the off-season, the amnestied aliens to use publicly funded services like education and emergency health care this is almost free since many of these aliens have artificially low wages thus making their tax contributions extremely low.

Finally, AgJOBS does not contain any provisions to tighten enforcement of U.S. immigration or labor laws. In fact, by rewarding illegal aliens with amnesty, AgJOBS will encourage even more illegal immigration.

By the time the amnestied aliens are released from ''indentured servitude'' under AgJOBS, agricultural employers will have access to a whole new population of illegal-alien workers and the cycle will be well on its way to repeating itself, just as it did after the ''one-time-only'' amnesty for agricultural workers in 1986.

I also believe both the REAL ID Act, sponsored by my colleague in the House, Congressman SENSENBRENNER, as well as a bill I supported in the last Congress, are sound ways to strengthen our immigration system. The REAL ID Act would make it more difficult for people who are violating our laws by being in our country illegally, as well as engaging in terrorist activities, to stay in the United States. Unfortunately, I was forced to vote against the intelligence bill in December because the provisions that are in the REAL ID Act were excluded from the intelligence bill.

One such provision in the current REAL ID Act has to do with a 3.5-mile gap in a border fence between San Diego and Tijuana. People are able to come and go as they please. This is where many illegal immigrants are coming through; some of them could even be terrorists.

Apparently, this gap has been left open because of a maritime succulent shrub, which is the environment in which two pairs of endangered birds live. These two pairs of birds, the vireo and the flycatcher, might be harassed—not killed—but harassed if the fence is completed.

I checked with the U.S. Geological Survey and found that there are an estimated 2,000 vireos and 1,000 flycatchers in existence today, and at the most, not building the fence prevents two pairs of birds from being harassed. Is it better to harass two pairs of birds or leave this 3.5-mile gap open for terrorists or other law-breakers to come through? I assume that not building the fence, leaving it open for aliens to trample on this environment, the home to these birds causes more harassment than actually building a fence.

Another provision in the REAL ID Act is the requirement for proof of lawful presence in the United States. This requirement applies to immigration law provisions passed in 1996, which I supported.

The temporary license requirement, including a requirement that the license term should expire on the same date as a visa or other temporary lawful presence-authorizing document, is in the REAL ID Act. This means if you are here on a document—such as a visa—and it expires, your driver's license should expire at the same time. Under current law, this is not the case

The REAL ID Act requires official identification to expire on the same date as a person's visa or other presence-authorizing document. Electronic confirmation by various State departments of motor vehicles to validate other States' driver's licenses is another important item in the REAL ID Act. Had Virginia officials referenced the Florida records of Mohammed Atta, one of the hijackers and masterminds behind 9/11, when he was stopped in Virginia, it is likely they would have discovered that his license was not current. The REAL ID Act will make it difficult for instances such as this to take place.

While I strongly support the steps taken in the REAL ID Act to strengthen our immigration laws, I remain vigilant, and look forward to working with my colleagues to ensure that American citizens' individual liberties are not infringed upon.

I also want to be aware of and oppose efforts to explicitly create a national ID card which could contain all of a person's personal information.

Finally, in the 108th Congress, I cosponsored S. 1906, the Homeland Security Enhancement Act of 2003, which was introduced by my colleague from Alabama, Senator SESSIONS, and my former colleague from Georgia, Senator Miller, and was also cosponsored by my colleague from Idaho, Senator CRAIG. S. 1906 would give our law enforcement and immigration and border officers the tools and funding they need to do their jobs. More specifically, S. 1906 would: clarify for law enforcement officers that they have the legal authority to enforce immigration violations while carrying out their routine duties; increase the amount of information regarding deportable illegal aliens entered into the FBI's National Crime Information Center database, making the information more readily available to state and local officials; supply additional facilities and beds to retain criminal aliens once they have been apprehended, instead of releasing them, which occurs quite frequently; require the Federal Government to either take illegal aliens into custody or pay the locality or State to detain them, instead of telling those officials to release the aliens because no one is available to take custody; require that criminal aliens be retained until deportation under the Institutional Removal Program, so that they are not released back into the community; mandate that States only give driver's licenses to legal immigrants and make the license expire the same day the alien's permission to be in the country expires.

In conclusion, let's work to improve and enforce our laws and not reward those who break them.

I ask unanimous consent that several pertinent articles be printed in the RECORD.

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

[From the New York Times, May 23, 2004]

BORDER DESERT PROVES DEADLY FOR MEXICANS

(By Timothy Egan)

At the bottleneck of human smuggling here in the Sonoran Desert, illegal immigrants are dying in record numbers as they try to cross from Mexico into the United States in the wake of a new Bush administration amnesty proposal that is being perceived by some migrants as a magnet to cross.

''The season of death,'' as Robert C. Bonner, the commissioner in charge of the Border Patrol, calls the hot months, has only just begun, and already 61 people have died in the Arizona border region since last Oct. 1, according to the Mexican Interior Ministry—triple the pace of the previous year.

The Border Patrol, which counts only bodies that it processes, says 43 people have died near the Arizona border since the start of its fiscal year on Oct. 1, more than in any other year in the same period.

Leon Stroud, a Border Patrol agent who is part of a squad that has the dual job of arresting illegal immigrants and trying to save their lives, said he had seen 34 bodies in the last year. In Border Patrol parlance, a dead car and a dead migrant are the same thing—a ''10–7''—but Mr. Stroud said he had never gotten used to the loss of life.

''The hardest thing was, I sat with this 15-year-old kid next to the body of his dad,'' said Mr. Stroud, a Texan who speaks fluent Spanish. ''His dad had been a cook. He was too fat to be trying to cross this border. We built a fire and I tried to console him. It was tough.''

If the pace keeps up, even with new initiatives to limit border crossings by using unmanned drones and Blackhawk helicopters in the air and beefed-up patrols on the ground, this will be the deadliest year ever to cross the nation's busiest smuggling corridor. The 154 deaths in the Border Patrol's Tucson and Yuma sectors last year set a record.

''This is unprecedented,'' said the Rev. John Fife, a Presbyterian minister in Tucson who is active in border humanitarian efforts. ''Ten years ago there were almost no deaths on the southern Arizona border. What they've done is created this gauntlet of death. It's Darwinian—only the strongest survive.''

For years, deaths of people trying to cross the border usually occurred at night on highways near urban areas, killed by cars. But now, because urban entries in places like San Diego and El Paso have been nearly sealed by fences, technology and agents, illegal immigrants have been forced to try to cross here in southern Arizona, one of the most inhospitable places on earth.

They die from the sun, baking on the prickled floor of the Sonoran Desert, where ground temperatures reach 130 degrees before the first day of summer. They die freezing, higher up in the cold rocks of the Baboquivari Mountains on moonless nights. They die from bandits who prey on them, in cars that break down on them, and from hearts that give out on them at a young age.

The mountainous Sonoran Desert, between Yuma in the west and Nogales in the east, is the top smuggling entry point along the entire 1,951-mile line with Mexico, the Border Patrol says. Through the middle of May, apprehensions of crossers in the desert south of Tucson had jumped 60 percent over the previous year. Nearly 300,000 people were caught trying to enter the United States through the desert border since last Oct. 1.

After a four-year drop, apprehensions—which the Border Patrol uses to measure human smuggling—are up 30 percent over last year along the entire southern border, with 660,390 people detained from Oct. 1 through the end of April, federal officials said.

The crossing here, over a simple barbed-wire fence, is followed by a walk of two or three days, up to 50 miles on ancient trails through a desert wilderness, to reach the nearest road, on the Tohono O'odham Nation Indian Reservation, a wedge of desert the size of Connecticut that is overrun with illegal immigrants, or on adjacent federal park or wildlife land. Most people start off with no more than two gallons of water, weighing almost 17 pounds, in plastic jugs. In recent days, with daytime temperatures over 100 degrees in the desert, a person needed a gallon of water just to survive walking five miles.

The desert is littered with garbage—empty plastic jugs, discarded clothes, toilet paper.

''My feet hurt and I'm thirsty, but I will try again after a rest,'' said Edmundo Saënz García, 28, who was apprehended on the reservation one morning near the end of his journey. His toes were swollen and blistered. He walked in cowboy boots. After being fingerprinted for security, he will be sent back to Mexico, agents said.

Mr. García said he had heard that the new Bush immigration plan, which would grant work visas to millions of illegal immigrants inside the United States and to others who can prove they have a job, was ''amnesty,'' and he wondered why he was arrested. He said he would try to cross again in a few days.

''It's like catch-and-release fishing,'' Mr. Stroud, the Border Patrol agent, said with a shrug after helping Mr. García with his blisters. ''One week, I arrested the same guy three times. If I dwell on it, it can be frustrating.''

Agents and groups opposed to open borders say the spike in crossings and deaths are the fault of the Bush proposal, which is stalled in Congress and unlikely to be acted on this year. But it has created a stir in Mexico, they say.

''They've dangled this carrot, and as a result apprehensions in Arizona are just spiking beyond belief,'' said T. J. Bonner, president of the National Border Patrol Council, which represents about 9,000 agents. ''The average field agent is just mystified by the administration's throwing in the towel on this.''

Mr. Bonner, who is not related to the border commissioner, said the people were crossing in huge numbers, even at the high risk of dying in the desert, because ''they're trying to get in line for the big lottery we've offered them.''

With an estimated 8 million to 12 million immigrants in this country illegally—and only a handful of prosecutions of employers who hire them—the southern border is more broken now than at any time in recent history, said Mark Krikorian, executive director of the Center for Immigration Studies, a research group opposed to increased immigration.

''We've created an incentive to take foolish risks,'' Mr. Krikorian said. ''In effect, we're saying if you run this gauntlet and can get over here, you're home free.''

Bush administration officials say there is only anecdotal evidence, from field agents, that their proposal has caused the spike in crossings. They point to a new $10 million border initiative and indications in recent weeks that apprehensions have leveled off as evidence that they are getting the upper hand on the Arizona border. It is the last uncontrolled part of the line between Mexico and the United States, they said.

''Unfortunately, there have always been deaths on the border,'' said Mario Villareal, a spokesman for the Border Patrol in Washington.

It was 3 years ago this month that 14 people died trying to walk cross the desert near this small tribal hamlet, dying of heat-related stress in what the poet Luis Alberto Urrea called ''the largest death event in border history.'' Mr. Urrea is the author of ''The Devil's Highway'' (Little, Brown and Company), an account of the crossing and border policy.

He wrote that the Sonoran Desert here ''is known as the most terrible place on earth,'' where people die ''of heat, thirst and misadventure.''

To curb deaths, the American government has been running an advertising campaign in Mexico, warning people of the horrors.

''The message is, 'No más cruces en la frontera,' 'no more crosses on the border,' '' Commissioner Bonner said in unveiling the

new plan earlier this month in Texas. He said 80 percent of the deaths in a given year happen between May and August.

The government has also increased staffing of Border Patrol Search Trauma and Rescue Units, called Borstar, which deploys emergency medical technicians like Mr. Stroud, to assist people found in desperate condition in the desert.

The publicity campaign seems to have had little effect, say border agents and illegal immigrants.

Ramínez Bermúdez, 26, walked for four days in 100-degree heat, and said he knew full well what he was getting into. He had been caught four times before his apprehension this week, he said.

Though he has a 25-acre farm in southern Mexico, Mr. Bermúdez said he could earn up to $200 a day picking cherries in California. He was distressed, though, at getting caught and at the failure to meet a coyote, or smuggler, who had agreed to pick him up and members of his group for $1,200 each.

Mr. Stroud has developed a ritual to cope with the increased number of bodies he has seen among the mesquite bushes and barrel cactus of the Sonoran. He has seen children as young as 10, their bodies bloated after decomposing in the heat, and mothers wailing next to them.

''I say a little prayer for every body,'' he said. ''You try not to let it get to you. But every one of these bodies is somebody's son or daughter, somebody's mother or father.''

[From the Washington Times, May 18, 2004]

STEALTH AMNESTY

(By Frank J. Gaffney, Jr.)

The issue that has the potential to be the most volatile politically in the 2004 election is not Iraq, the economy or same-sex marriages. At this writing, it would appear to be the wildly unpopular idea of granting illegal aliens what amounts to amnesty—the opportunity to stay in this country, work, secure social services, become citizens and, in some jurisdictions, perhaps vote even prior to becoming citizens.

So radioactive is this idea across party, demographic, class and geographic lines that President Bush has wisely decided effectively to shelve the immigration reform plan he announced with much fanfare earlier this year. With the lowest job approval ratings of his presidency, the last thing he needs is a legislative brawl that will at best fracture, and at worst massively alienate his base.

It appears unlikely to help him much with Americans of other stripes, either. Significant numbers of independents and Democrats (although, to be sure, not John Kerry's left-wing constituency)—even Hispanic ones—feel as conservative Republicans do: Rewarding those who violate our immigration statutes is corrosive to the rule of law, on net detrimental to our economy and a serious national security vulnerability.

Unfortunately for Mr. Bush, one of his most loyal friends in the U.S. Senate, Republican conservative Larry Craig of Idaho, is poised to saddle the president's re-election bid with just such a divisive initiative: S. 1645, the Agricultural Job Opportunity, Benefits and Security Act of 2003 (better known as the AgJobs bill). AgJobs is, in some ways, even worse than the president's plan for temporary workers. While most experts disagree, at least Mr. Bush insists that his initiative will not amount to amnesty for illegal aliens.

No such demurral is possible about S. 1645. By the legislation's own terms, an illegal alien will be turned into ''an alien lawfully admitted for temporary residence,'' provided they had managed to work unlawfully in an agricultural job in the United States for a minimum of 100 hours—in other words, for just 2½ workweeks—during the 18 months prior to August 31, 2003.

Once so transformed, they can stay in the U.S. indefinitely while applying for permanent resident status. From there, it is a matter of time before they can become citizens, so long as they work in the agricultural sector for 675 hours over the next six years.

The Craig bill would confer this amnesty not only on farmworking illegal aliens who are in this country—estimates of those eligible run to more than 800,000. It would also extend the opportunity to those who otherwise qualified but had previously left the United States. No one knows how many would fall in this category and want to return as legal workers. But, a safe bet is that there are hundreds of thousands of them.

If any were needed, S. 1645 offers a further incentive to the illegals: Your family can stay, as well. Alternatively, if they are not with you, you can bring them in, too—cutting in line ahead of others who made the mistake of abiding by, rather than ignoring, our laws. And just in case the illegal aliens are daunted by the prospect of filling out such paperwork as would be required to effect the changes in status authorized by the AgJobs bill, S. 1645 offers still more: free counsel from, ironically, the bane of conservatives like Sen. Larry Craig and many of his Republican co-sponsors—the highly controversial, leftist and taxpayer-underwritten Legal Services Corp.

Needless to say, such provisions seem unlikely to be well-received by the majority of law abiding Americans. Nor, for that matter, do they appear to have much prospect of passage in the less-self-destructive House of Representatives.

Yet, if Mr. Craig presses for action on his legislation, the Senate leadership might be unable to spare either President Bush or itself the predictable blow-back: As of today, the Senate Web site indicates the Idahoan has 61 cosponsors, two more than are needed to cut off debate and bring the legislation to a vote; 11 more than would be needed for its passage.

In short, thanks to intense pressure from an unusual coalition forged by the agricultural industry and illegal alien advocacy groups, the Senate might endorse the sort of election altering initiative that precipitates voter response—like that made famous by the movie ''Network News'': ''I am mad as hell and I am not going to take it anymore.'' Some, perhaps including the normally shrewd Mr. Craig, may calculate that such voters will have nowhere to go if the alternative to Republican control of the White House and Senate would be Democrats who are, if anything, even less responsible when it comes to amnesty (and social services, voting rights, etc.) for illegal aliens.

The truth of the matter, though—as President Bush's political operatives apparently concluded after they trotted out their amnesty-light initiative last January—is voters don't have to vote Democratic to change Washington's political line-up. They just have to stay home on Election Day. And S. 1645 could give them powerful reason to do so.

[From the New York Times, March 22, 2004]

IN FLORIDA GROVES, CHEAP LABOR MEANS MACHINES

(By Eduardo Porter)

IMMOKALEE, FLA.—Chugging down a row of trees, the pair of canopy shakers in Paul Meador's orange grove here seem like a cross between a bulldozer and a hairbrush, their hungry steel bristles working through the tree crowns as if untangling colossal heads of hair.

In under 15 minutes, the machines shake loose 36,000 pounds of oranges from 100 trees, catch the fruit and drop it into a large storage car. ''This would have taken four pickers all day long,'' Mr. Meador said.

Canopy shakers are still an unusual sight in Florida's orange groves. Most of the crop is harvested by hand, mainly by illegal Mexican immigrants. Nylon sacks slung across their backs, perched atop 16-foot ladders, they pluck oranges at a rate of 70 to 90 cents per 90-pound box, or less than $75 a day.

But as globalization creeps into the groves, it is threatening to displace the workers. Facing increased competition from Brazil and a glut of oranges on world markets, alarmed growers here have been turning to labor-saving technology as their best hope for survival.

''The Florida industry has to reduce costs to stay in business,'' said Everett Loukonen, agribusiness manager for the Barron Collier Company, which uses shakers to harvest about half of the 40.5 million pounds of oranges reaped annually from its 10,000 acres in southwestern Florida. ''Mechanical harvesting is the only available way to do that today.''

Global competition is pressing American farmers on many fronts. American raisins are facing competition from Chile and Turkey. For fresh tomatoes, the challenge comes from Mexico. China, whose Fuji apples have displaced Washington's Golden Delicious from most Asian markets—and whose apple juice has swamped the United States—is cutting into American farmers' markets for garlic, broccoli and a host of other crops.

So even while President Bush advances a plan to invite legal guest workers into American fields, farmers for the first time in a generation are working to replace hand laborers with machines.

''The rest of the world hand-picks everything, but their wage rates are a fraction of ours,'' said Galen Brown, who led the mechanical harvesting program at the Florida Department of Citrus until his retirement last year. Lee Simpson, a raisin grape grower in California's San Joaquin Valley, is more blunt. ''The cheap labor,'' he said, ''isn't cheap enough.''

Mr. Simpson and other growers have devised a system that increases yields and cuts the demand for workers during the peak harvest time by 90 percent; rather than cutting grapes by hand and laying them out to dry, the farmers let the fruit dry on the vine before it is harvested mechanically.

Some fruit-tree growers in Washington State have introduced a machine that knocks cherries off the tree onto a conveyor belt; they are trying to perfect a similar system for apples. Strawberry growers in Ventura County, Calif., developed a mobile conveyor belt to move full strawberry boxes from the fields to storage bins, cutting demand for workers by a third. And producers of leaf lettuce and spinach for bag mixes have introduced mechanical cutters.

American farmers have been dragging machines into their fields at least since the mid-19th century, when labor shortages during the Civil War drove a first wave of mechanical harvesting. Mechanization grew apace for the following 100-plus years, taking over the harvesting of crops including wheat, corn, cotton and sugar cane.

But not all crops were easily adaptable to machines. Whole fruit and vegetables—the most lucrative and labor intensive crops, employing four of every five seasonal field workers—require delicate handling. Mechanization sometimes meant rearranging the fields, planting new types of vines or trees and retrofitting packing plants.

Rather than make such investments, farmers mostly focused on lobbying government

for easier access to inexpensive labor. California growers, the biggest fruit and vegetable producers in the nation, persuaded the government to admit Mexican workers during World War I. Later, from 1942 to 1964, 4.6 million Mexican farm workers were admitted into the country under the bracero guest-worker program.

Investment in technology generally happened when the immigrant spigot was shut. After the bracero program ended and some farm wages began to rise, scientists at the University of California at Davis began work on both a machine to harvest tomatoes mechanically and a tomato better suited to mechanical harvesting.

By 1970, the number of tomato-harvest jobs had been cut by two-thirds. But the tomato harvester's success proved to be a kiss of death for mechanical harvesting. In 1979, the farm worker advocacy group California Rural Legal Assistance, with support from the United Farm Workers union of Cesar Chavez, sued U.C. Davis, charging that it was using public money for research that displaced workers and helped only big growers.

The lawsuit was eventually settled. But even before that, in 1980, President Jimmy Carter's agriculture secretary, Bob Bergland, declared that the government would no longer finance research projects intended to replace ''an adequate and willing work force with machines.'' Today, the Agricultural Research Service employs just one agricultural engineer: Donald Peterson, a longtime researcher at the Appalachian Fruit Research Station in Kearneysville, W. Va.

''At one time I was told to keep a low profile and not to publicize what I was doing,'' Mr. Peterson said.

As the government pulled out, growers lost interest as well, refocusing on Congress instead. In 1986, farmers were instrumental in winning passage of the Immigration Reform and Control Act, which legalized nearly three million illegal immigrants—more than a third under a special program for agriculture.

Farmers' investments in labor-saving technology all but froze, and gains in labor productivity slowed. From 1986 to 1999, farm labor inputs fell 2.4 percent, after a drop of 35 percent in the preceding 14 years. Meanwhile, farmers' capital investments fell 46.7 percent from their peak in 1980 through 1999.

About 45 vegetable and fruit crops planted over 3.6 million acres of land, and worth about $13 billion at the farm gate, are still harvested by hand, by a labor force made up mostly of illegal immigrants. On average, farm workers earned $6.18 an hour, less than half the average wage for private, nonfarm workers, in 1998, the year of the Labor Department's most recent survey of agricultural workers.

Florida's orange groves have reflected the broader trends. In the 1980's, a 20-year research effort into mechanical harvesting ground to a halt. With frosts upstate taking 200,000 acres out of production, orange prices soared and the demand for labor fell.

But as is often the case in agriculture, farmers overreacted to the market's strength, flocking to plant groves among the vegetable patches, pastures and swamps in the southwestern part of the state. By the early 1990's, the market looked poised for a glut. With the prospect of bumper crops in Brazil, where harvesting costs are about one-third as high as in Florida, a crisis loomed—driving orange growers back into technology's embrace.

In 1995, the growers decided to plow $1 million to $1.5 million a year into research in mechanical harvesting. By the 1999–2000 harvest, the growers had achieved their technological breakthrough, with four different harvesting machines working commercially. Last year, machines harvested 17,000 acres of the state's 600,000 acres planted in juice oranges, said Fritz M. Roka, an agricultural economist at the University of Florida.

''Mechanical harvesting is the biggest change in the Florida citrus industry since we switched to aluminum ladders,'' said Will Elliott, general manager of Coe-Collier Citrus Harvesting, one of seven commercial contractors that are shaking trunks and brushing canopies around the state.

Mr. Brown, the retired Department of Citrus official, estimates that in five years, machines will harvest 100,000 acres of oranges here. But there are obstacles. Machines work best on the big, regularly spaced, groomed young groves in the southwest, and some do not work at all on the smaller, older, more irregular acreage in central Florida. Machines are hard to use on Valencia orange trees, because shaking them risks prematurely dislodging much of the following year's harvest.

Still, the economics are in mechanization's favor. A tariff of 29 cents per pound on imports of frozen concentrated orange juice lets Florida growers resist the Brazilian onslaught—but not by much. According to Ronald Muraro and Thomas Spreen, researchers at the University of Florida, Brazil could deliver a pound of frozen concentrate in the United States for under 75 cents, versus 99 cents for a Florida grower.

Mechanical harvesting can help cut the gap. Mr. Loukonen of Barron Collier estimates that machine harvesting shaves costs by 8 to 10 cents a pound of frozen concentrate.

The spread of mechanization could redraw the profile of Immokalee, which today is a rather typical American farming town. Seventy-one percent of the population of 20,000 is Latino—with much of the balance coming from Haiti—and 46 percent of the residents are foreign born, according to the 2000 census. About 40 percent of the residents live under the poverty line, and the median family income is below $23,000—less than half that of the United States as a whole.

Philip Martin, an economist at U.C. Davis, points to the poverty as an argument in favor of labor-saving technology. He estimates that about 10 percent of immigrant farm workers leave the fields every year to seek better jobs. Rather than push more farmhands out of work, he contends, introducing machines will simply reduce the demand for new workers to replenish the labor pool.

And there are some beneficiaries among workers: those lucky enough to operate the new gear. Perched in the air-conditioned booth of Mr. Meador's canopy shaker, a jumpy ranchera tune crackling from the radio, Felix Real, a former picker, said he can make up to $120 a day driving the contraption down the rows, about twice as much as he used to make.

Yet many Immokalee workers are nervous. ''They are using the machines on the good groves and leaving us with the scraggly ones,'' said Venancio Torres, an immigrant from Mexico's coastal state of Veracruz who has been picking oranges in Florida for three years.

Mr. Loukonen, the Barron Collier manager, said the farm workers were right to be anxious. ''If there's no demand for labor, supply will end,'' he said. ''They will have to find another place to work, or stay in their country.''

Mr. CRAIG. Mr. President, our Federal Government has got to do better, faster, in improving our border security and meeting the growing problem of illegal immigration.

That is why Congress has been beefing up the border patrol and buying high-tech verification systems for the Department of Homeland Security.

That is why, whether you agree on the specific methods or not, the House of Representatives attached national drivers' license standards and asylum changes, in the so-called REAL ID provisions, to the Iraq supplemental appropriations bill.

That is why I have supported Senator BYRD on an amendment to this bill to increase border security, hire more investigators and enforcement agents, and boost resources for detention.

That is why I am cosponsoring a bill to help States deal with undocumented criminal aliens.

And that is why I have worked to bring the AgJOBS—bill the Agricultural Job Opportunities, Benefits, and Security Act—to the Senate floor.

I truly wish we did not have to have this debate on this bill on the Senate floor.

However, the House of Representatives has forced this opportunity upon us. By putting border, identification, and asylum provisions in the supplemental, the House has turned this bill into an immigration bill.

I am committed to making this debate as brief as possible, and as full and fair as necessary. As far as I am concerned, a thorough debate on AgJOBS does not need to take more than a couple hours, if we can get agreement from Senators who oppose the amendment.

The Senate has enough time for this amendment. If anyone is going to unduly delay this bill, it is not this Senator. As a member of the Appropriations Committee and on this floor, I fully support prompt appropriations for our men and women in uniform and for operations necessary in the war on terrorism.

AgJOBS is only an installment toward an overall solution to our nation's growing problem of illegal immigration. However, it is a significant installment, a logical installment, and one that is fully matured and ready to go forward.

I have worked with my colleagues and numerous communities of interest on AgJOBS issues for several years. The amendment I bring forward this week has been, in all its major essentials, well-known and much discussed in the Senate and the House for more than a year and a half.

This bipartisan effort builds upon years of discussion and suggestions among growers, farm worker advocates, Latino and immigration issue advocates, Members of both parties in both Houses of Congress, and others.

We have now built the largest bipartisan coalition ever for a single immigration bill. This letter was just delivered this week to Senate offices. There are about 100 more signatures on this letter than a similar letter delivered a year ago. Support for AgJOBS is growing.

That support reflects the fact that, in agriculture as in other sectors, the current immigration and labor market system is profoundly broken.

An enforcement-only policy is not the answer and doesn't work.

The United States has 7,458 miles of land borders and 88,600 miles of tidal shoreline. We can secure those frontiers well but not perfectly. As we have stepped up border enforcement, we have locked undocumented immigrants in this country at least as effectively as we have locked any out.

With an estimated 10 million undocumented persons in the United States, to find them and flush them out of homes, schools, churches, and work places would mean an intrusion on the civil liberties of Americans that they will not tolerate. We fought our revolution, in part, over troops at our doors and in our homes.

History has shown us what does work: A coupling of more secure borders, better internal enforcement, and a guest worker program that faces up to economic reality.

The only experience our country has had with a legal farm guest worker program—used widely in the 1950s but repealed in the 1960s—taught us conclusive lessons. While it was criticized on other grounds, that program dramatically reduced illegal immigration from high levels to almost nothing, while meeting labor market needs.

AgJOBS is a groundbreaking, necessary part of this balanced, realistic approach. American agriculture has boldly stepped forward and admitted the problem. AgJOBS is a critical part of the solution.

Agriculture is the sector of the economy for which the problem is the worst. Fifty to 75 percent of farm workers are undocumented. As internal enforcement has stepped up, family farms are going out of business because they cannot find legal workers.

This mighty machine we call American agriculture is on a dangerous precipice—perhaps the most dangerous in our history. This year, for the first time since records have been kept, the United States is on the verge of becoming a net importer of agricultural products.

To keep American-grown food on our families' tables, we need a stable, legal, labor supply. To keep suppliers, processors, and other rural jobs alive, American agriculture needs a stable, legal, labor supply. It has been said, foreign workers are going to harvest our food; the only question is whether they do it here or in another country.

Whatever the case is in other industries, in agriculture, we really are talking about jobs that Americans can't or won't take. This physically demanding labor is seasonal and migrant in nature. Few Americans can or will leave home and family behind, to travel from State to State, crop to crop, for only part of the year, living in temporary structures. The planting, growing, and harvesting seasons occur at different times in different States—usually when students are not available.

AgJOBS is also part of a humane solution. Legal workers can demand a living wage and assert legal rights that undocumented workers—smuggled into the country and kept ''underground''—cannot. Every year, more than 300 persons die in the desert, the boxcar, or the back of a truck trailer. For a civilized, humane country, that is intolerable.

For the long term, AgJOBS reforms and streamlines the profoundly broken H–2A program that is supposed to provide legal, farm guest workers. It is now so bureaucratic and burdensome, it admits only about 40,000 workers a year—2 to 3 percent of farm workers.

However, we cannot expand the H–2A program overnight. A system of consulate system, a Homeland Security bureaucracy, and a Department of Labor bureaucracy that, today, chokes on processing 40,000 workers a year will need several years to ramp up to several times that amount. Growers, almost all of which do not use H–2A today, will need time to get into the system. Also, growers will need time to build housing and prepare for the other labor standards that H–2A has always required to prevent foreign workers from taking jobs from Americans.

As a bridge to stabilize the workforce while H–2A reforms are being implemented, AgJOBS includes a one-time-only earned adjustment program, to let about 500,000 trusted farm workers, with a proven, substantial work history here, continue working here, legally. The permanent H–2A reforms would make future farm worker adjustments unnecessary.

AgJOBS is not amnesty or a reward for illegal behavior.

Requiring several years of demanding, physical labor in the fields is an opportunity to rehabilitate to legal status—to earn the adjustment to legal status.

Adjusting AgJOBS workers would have to meet a higher standard of good behavior than other, legal immigrants, in the future. Once a worker is in the adjustment program, he or she has to obey all the laws that other, legal immigrants have to. In addition, an adjusting worker would be deported for conviction of one felony; or three misdemeanors, however minor; or, in the amendment before, a single serious misdemeanor, defined as an offense that results in 6 months of jail time.

Part of earning adjustment involves the immigrant surrendering to some limits on his or her legal rights—including a substantial prospective work requirement in agriculture and meeting a higher legal standard of good behavior than other, legal immigrants.

The adjusting worker can apply for permanent residence—a green card—at the end of the adjustment process. As a practical matter, obtaining a green card would take about 6 to 9 years after the worker enters the adjustment process. For the work involved, the economic contributions made, and the diligence required over a long period of time, this is fair. Sharing the American dream with persons who want to be—and will be—law-abiding members of the community, is fair.

AgJOBS workers, both adjusting and H–2A, would be free to leave the country at the end of the work season and not be ''locked in'' the country, between jobs.

Finally, AgJOBS is good for our homeland security.

With background checks, AgJOBS would let American families know who is putting the food on our tables. That means ensuring a safe and stable food supply for American families.

When we stop sending investigators and enforcement agents into the potato fields and apple orchards, we will be able to devote critical resources where they belong—hunting down real criminals and stopping terrorists.

AgJOBS is a win-win-win, for growers, workers, taxpayers, and homeland security. I urge my colleagues to support this amendment.

I also ask unanimous consent to have printed in the RECORD several documents setting out facts about AgJOBS, the need for AgJOBS, frequently asked questions, and letters of endorsement from the New England Apple Council, Americans for Tax Reform, and from former U.S. Trade Representative and Secretary of Agriculture, Clayton Yeutter.

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

FACTS ABOUT AGJOBS

THE AGRICULTURAL JOB OPPORTUNITY, BENEFITS, AND SECURITY ACT OF 2005—S. 359/H.R. 884

The Problem: Some 50 to 75 percent of America's farm work force is undocumented. As border and internal enforcement improves, work force disruptions are increasing and some operations are simply shutting down because growers cannot find a reliable, legal labor supply. This comes at a time when American agriculture is in perhaps its most precarious condition in our history, and we are on the verge of importing more food than we grow, for the first time since records have been kept.

Long-Term Solution: A permanently reformed H–2A program would be streamlined, easier to use, and more economical, providing a legal work force for farm jobs Americans won't take. Legal guest workers would go back to their home countries when the work season is over. The current H–2A system is profoundly broken and supplies only 2 to 3 percent of farm workers (30,000 to 40,000 a year out of a work force of 1.6 million).

Short-Term ''Bridge'': A one-time-only earned adjustment program would allow growers to retain trusted, tax-paying employees with a proven work history, to stabilize the ag work force as the industry (and the government bureaucracy) transitions to greater use of a reformed H–2A program. Based on DOL statistics, about 500,000 workers would be eligible to apply.

Rehabilitation, not ''amnesty'': A significant prospective work requirement (at least 360 days over 3 to 6 years, including at least 240 days in the first 3 years) in agriculture—among the most physically demanding work in the country—means adjusting workers could earn the right to stay and work toward legal status. Adjusting workers would have to meet a higher standard of good behavior than other, legal immigrants, being subject to deportation for any 3 misdemeanors, regardless how minor.

Good for homeland security: Hundreds of thousands of undocumented workers would be brought out of the shadows and given background checks. DHS could re-focus more resources on fighting more dangerous threats.

Good for American consumers: American families would be more certain of a safe, stable, food supply grown in America, and we would know who is growing our food.

Not a ''magnet'' for new illegal immigration: Only workers with a substantial, proven work history (at least 100 days) in agriculture in the USA before January 1, 2005, would be eligible to apply for the earned adjustment program.

Not ''taking jobs away'' from American workers: H–2A labor standards (including wages, housing, and transportation) ensure that American workers are not ''underbid'' for H–2A jobs. Whatever arguments some may make about other industries, most of the work in labor-intensive agriculture is seasonal and migrant in nature. Most American workers cannot and will not leave their families and homes behind, to move from farm to farm, living in temporary quarters, following temporary work.

Humane, good for workers: It is intolerable that, every year, hundreds of workers die packed in boxcars or truck trailers or crossing the desert. Many thousands are preyed upon by human smugglers. Stepped-up border enforcement has locked in as many as it has locked out, as returning home at the end of the work season becomes as treacherous and deadly as entering the country. Workers with legal status can assert legal rights against exploitation and safely leave the country when the work is done.

THE NEED FOR AGJOBS LEGISLATION—NOW

Americans need and expect a stable predictable, legal work force in American agriculture. Willing American workers deserve a system that puts them first in line for available jobs with fair, market wages. All workers deserve decent treatment and protection of basic rights under the law. Consumers deserve a safe, stable, domestic food supply. American citizens and taxpayers deserve secure borders, a safe homeland, and a government that works. Yet we are being threatened on all these fronts, because of a growing shortage of legal workers in agriculture.

To address these challenges, a bipartisan group of Members of Congress, including Senators Larry Craig (ID) and Ted Kennedy (MA) and Representative Chris Cannon (UT) and Howard Berman (CA), is introducing the Agricultural Job Opportunity, Benefits, and Security (AgJOBS) Act of 2005. This bipartisan effort builds upon years of discussion and suggestions among growers, farm worker advocates, Latino and immigration issue advocates, Members of both parties in both Houses of Congress, and others. In all substantive essentials, this bill is the same as S. 1645/H.R. 3142 in the 108th Congress.

THE PROBLEMS

Of the USA's 1.6 million agricultural work force, more than half is made up of workers not legally authorized to work here—according to a conservative estimate by the Department of Labor, based, astoundingly, on self-disclosure in worker surveys. Reasonable private sector estimates run to 75 percent or more.

With stepped up documentation enforcement by the Social Security Administration and the Bureau of Immigration and Customs Enforcement (the successor to the old INS), persons working here without legal documentation are not leaving the country, but just being scattered. The work force is being constantly and increasingly disrupted. Ag employers want a legal work force and must have a stable work force to survive—but federal law actually punishes ''too much diligence'' in checking worker documentation. Some growers already have gone out of business, lacking workers to work their crops at critical times.

Undocumented workers are among the most vulnerable persons in our country, and know they must live in hiding, not attract attention at work, and move furtively. They cannot claim the most basic legal rights and protections. They are vulnerable to predation and exploitation. Many have paid ''coyotes''—labor smugglers—thousands of dollars to be transported into and around this country, often under inhumane and perilous conditions. Reports continue to mount of horrible deaths suffered by workers smuggled in enclosed truck trailers.

Meanwhile, the only program currently in place to respond to such needs, the H–2A legal guest worker program, is profoundly broken. The H–2A status quo is slow, bureaucratic, and inflexible. The program is complicated and legalistic. DOL's compliance manual alone is over 300 pages. The current H–2A process is so expensive and hard to use, it places only about 30,000–50,000 legal guest workers a year—2 percent to 3 percent of the total ag work force. A General Accounting Office study found DOL missing statutory deadlines for processing employer applications to participate in H–2A more than 40% percent of the time. Worker advocates have expressed concerns that enforcement is inadequate.

THE SOLUTION—AGJOBS REFORMS

AgJOBS legislation provides a two-step approach to a stable, legal, safe, ag work force: (1) Streamlining and expanding the H–2A legal, temporary, guest worker program, and making it more affordable and used more—the long-term solution, which will take time to implement; (2) Outside the H–2A program, a one-time adjustment to legal status for experienced farm workers already working here, who currently lack legal documentation—the bridge to allow American agriculture to adjust to a changing economy.

H–2A Reforms: Currently, when enough domestic farm workers are not available for upcoming work, growers are required to go through a lengthy, complicated, expensive, and uncertain process of demonstrating that fact to the satisfaction of the federal government. They are then allowed to arrange for the hiring of legal, temporary, nonimmigrant guest workers. These guest workers are registered with the U.S. Government to work with specific employers and return to their home countries when the work is done. Needed reforms would:

Replace the current quagmire for qualifying employers and prospective workers with a streamlined ''attestation'' process like the one now used for H–1B high-tech workers, speeding up certification of H–2A employers and the hiring of legal guest workers.

Participating employers would continue to provide for the housing and transportation needs of H–2A workers. New adjustments to the Adverse Effect Wage Rate would be suspended during a 3-year period pending extensive study of its impact and alternatives. Other current H–2A labor protections for both H–2A and domestic workers would be continued. H–2A workers would have new rights to seek redress through mediation and federal court enforcement of specific rights. Growers would be protected from frivolous claims, exorbitant damages, and duplicative contract claims in state courts.

The only experience our country has had with a broadly-used farm guest worker program (used widely in the 1950s but repealed in the 1960s) demonstrated conclusive, and instructive, results. While it was criticized on other grounds, it dramatically reduced illegal immigration while meeting labor market needs.

Adjustment of workers to legal status

To provide a ''bridge'' to stabilize the ag work force while H–2A reforms are being implemented, AgJOBS would create a new earned adjustment program, in which farm workers already here, but working without legal authorization, could earn adjustment to legal status. To qualify, an incumbent worker must have worked in the United States in agriculture, before January 1, 2005, for at least 100 days in a 12–month period over the last 18 months prior to the bill's introduction. (The average migrant farm worker works 120 days a year.)

This would not spur new immigration, because adjustment would be limited to incumbent, trusted farm workers with a significant work history in U.S. agriculture. The adjusting worker would have non-immigrant, but legal, status. Adjustment would not be complete until a worker completes a substantial work requirement in agriculture (at least 360 days over the next 3–6 years, including 240 days in the first 3 years).

Approximately 500,000 workers would be eligible to apply (based on current workforce estimates). Their spouses and minor children would be given limited rights to stay in the U.S., protected from deportation. The worker would have to verify compliance with the law and continue to report his or her work history to the government. Upon completion of adjustment, the worker would be eligible for legal permanent resident status. Considering the time elapsed from when a worker first applies to enter the adjustment process, this gives adjusting workers no advantage over regular immigrants beginning the legal immigration process at the same time.

AgJOBS would not create an amnestv program. Neither would it require anything unduly onerous of workers. Eligible workers who are already in the United States could continue to work in agriculture, but now could do so legally, and prospectively earn adjustment to legal status. Adjusting workers may also work in another industry, as long as the agriculture work requirement is satisfied.

AGJOBS IS A WIN-WIN-WIN APPROACH

Workers would be better off than under the status quo. Legal guest workers in the H–2A program need the assurance that government red tape won't eliminate their jobs. For workers not now in the H–2A program, every farmworker who gains legal status finally will be able to assert legal protection—which leads to higher wages, better working conditions, and safer travel. Growers and workers would get a stable, legal work force. Consumers would get better assurance of a safe, stable, American-grown, food supply—not an increased dependence on imported food. Law-abiding Americans want to make sure the legal right to stay in our country is earned, and that illegal behavior is not rewarded now or encouraged in the future. Border and homeland security would be improved by bringing workers out of the underground economy and registering them with the AgJOBS adjustment program. Overall, AgJOBS takes a balanced approach, and would work to benefit everyone.

FREQUENTLY ASKED QUESTIONS ON AGJOBS AND EARNED ADJUSTMENT

Q. Amnesty doesn't work. Why try it again?

A. Amnesty doesn't work. That's why I never have supported it. The country has tried amnesty in the past and it's failed. Our current immigration law is flawed and enforcement has been a miserable failure. The government has pretended to control the borders while the country has looked the

other way and ignored the problem. That's precisely why we need to try a new, innovative approach like AgJOBS.

Q. How can you justify rewarding people who came here illegally by allowing them to become legal?

A. The only workers who apply for the adjustment program will be those who want to become law-abiding in every respect. They will have to register with the government and verify their continued employment. Their adjustment to legal status will be complete only after they earn it with continued, demanding labor in agriculture for the next 3–6 years. If an adjusting worker breaks other laws, he or she is out. The Adjustment Program would be there to benefit hard-working, known, trusted farm workers who did and will obey our laws in every other way. This is not a reward, but rehabilitation.

Q. Won't the promise of status adjustment encourage more illegal immigration?

A. Not in our AgJOBS bill. If someone wants to enter the United States to take advantage of our bill, they are already too late. To begin applying for adjustment, the worker must have been here before January 1, 2005—3 weeks before the bill was introduced—with a substantial record of work in agriculture. We are talking about stabilizing the current farm work force—working with persons who already are here.

Q. Why should agriculture get this special treatment?

A. That's the sector of our economy most impacted by illegal immigration. The crisis in agriculture must be addressed immediately—and it took us years just to get agreement between growers and labor, between key Republicans and Democrats, on this new approach. If AgJOBS works—and I believe it will—it will help us figure out how to solve the much bigger problem of an estimated million illegal aliens in this country.

Q. Illegal aliens have broken the law. Why not just round them up and deport them?

A. (1) We can't, as a practical matter. The official 2000 Census estimated that there are more than 8.7 million illegal aliens in the U.S. There are more today. That's the consequence of looking the other way for decades. Finding and forcibly removing all of them would make the War on Terrorism look cheap and would disrupt communities and work places to an extent most Americans simply wouldn't tolerate. If a law has failed, you can ignore it or fix it. Looking the other way only encourages more disrespect for the law. We need a new, innovative solution. AgJOBS is the pilot program.

(2) Up to 85 percent of all farm workers are here illegally. If we could round up and deport every illegal farm worker, that would be pretty much the end of American agriculture—the end of our safe, secure, homegrown food supply. That's how I first got involved in this issue, because agriculture is critical to the economy of Idaho—and the nation. We need to bring these workers out of the shadows, out of the underground economy, and turn them into law-abiding workers.

Q. Won't more illegals to sneak across the border, claim they were already here as farm workers, and abuse this new program?

A. Unlike the 1986 program—which was amnesty and was very different—our bill requires workers to provide documentary proof that they already were established here as farm workers—for example, tax records or employers' records.

Q. Once this wave of ''adjusting workers'' settle in, what's to prevent the demand for ANOTHER amnesty program in a few years?

A. Our bill would help stabilize the farm work force in the short term so that American farmers can adjust to the economy of the 21st Century for the long term. The Adjustment Program would give us the time we need to reform and significantly grow the other program in the bill, the H–2A Program, which employs legal, temporary ''guest workers'' who enter the U.S. only under government supervision and leave when the work is done. Because the H–2A Program has been broken for decades, there's been no effective vehicle for workers to come here legally to work in agriculture when domestic workers aren't available.

Q. Aren't these illegals stealing jobs from Americans?

A. I hear about that in other industries. I don't know that I've ever received one complaint from an American citizen who wanted to do the physically demanding labor of a migrant farm worker and felt an illegal alien had kept him or her out of that job. But I have heard from farmers who have gone out of business because they couldn't find a legal work force. This is why many of our legal visa programs are industry-specific—because the economy and labor markets are different for different industries. This is precisely the reason to try the AgJOBS solution in agriculture.

Q. How will this bill help us control our borders?

A. We can't possibly seal off thousands of miles of borders and coastlines. But we can control them better and improve our homeland security. Thousands of AgJOBS workers would be registered with, and in a job program supervised by, the Federal Government. This would be a major step forward toward a longer-term, more comprehensive solution.

Q. Who's going to pay for the medical bills and social services for adjusting workers?

A. Remember, in the AgJOBS Adjustment Program, we are talking only about workers who already are here, with substantial jobs in agriculture. So, AgJOBS does not add one bit to this burden. In fact, if anything, it starts helping to provide relief. When these workers gain legal status, they will be in a better position to earn more and do more to provide for themselves than they can today.

NEW ENGLAND APPLE COUNCIL INC.,
April 18, 2005.

Hon. SENATOR CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: The New England Apple Council was formed more than 35 years ago, at the end of the Bracero program. Our 185 growers, me included, have used H2A workers or workers under previous programs for more than 50 years. The first foreign workers to come to New England to harvest crops were in 1943. Over the last decade we have been struggling to keep the H2A program working. I don't need to tell you the program is broken and in order for our growers to keep a legal workforce the program needs fixing.

I listened to Senators Sessions and Byrd speaking against Ag-Jobs on Friday and was extremely disturbed by what they were saying. They read from letters sent by a few associations and agents who are opposed to Ag-Jobs. The growers using the H2A program ARE IN FAVOR OF AG-JOBS!! Some associations and agents are not. Why? Because if we reform H2A so that it really works many growers will be able to use it without an association or agent. That's what H2A reform is all about, and we are in favor of it!! Workers who have held H2A jobs and meet the required days of employment will be rewarded for playing by the rules. Senator Sessions stated Friday that ''only people who break the law will be rewarded'', that is not true!! We have many workers who for many years, some since before 1986, have been coming yearly and going home at the end of their contract. Nationwide between 7 and 10% of the adjusting workers will be those H2A workers who have obeyed the law, and they will finally be rewarded. Some agents and some associations see that as a bad move, which will cause disruption in the workforce, most growers say it's time to reward those workers who have obeyed the law.

As a longtime user of H2A workers and Executive Director of New England Apple Council and past President of the National Council of Agricultural employers I believe I have the feel of most agricultural employers in the United States. They are overwhelmingly in favor of Ag-Jobs. The Jamaica Central Labour Organization, which supplies most of the H2A workers to employers in the Northeast, is in favor of Ag-Jobs. The Association of Employers of Jamaican Workers, which I am Chairman of, supports Ag-Jobs. And lastly the 520 Organizations who signed the letter to congress sent on April 11th. Support Ag-Jobs. Please tell the Senate that an overwhelming number of the U.S. employers of H2A labor support Ag-Jobs.

Thank you for your support on this very difficult issue.

Sincerely,

JOHN YOUNG.

AMERICANS FOR TAX REFORM,
Washington, DC, April 12, 2005.

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.
Hon. CHRIS CANNON,
House of Representatives,
Washington, DC.

DEAR SENATOR CRAIG AND CONGRESSMAN CANNON: I would like to take this opportunity to commend you for the introduction of S. 1645 and H.R. 3142, ''The Agricultural Job Opportunity, Benefits, and Security Act of 2005.'' The ''AgJobs'' bill is a great first step in bringing fundamental reform to our nation's broken immigration system.

AgJobs would make America more secure. 50 to 75 percent of the agricultural workforce in this country is underground due to highly-impractical worker quota restrictions. Up to 500,000 workers would be given approved worker status, screened by the Department of Homeland Security, and accounted for while they are here. Any future workers coming into America looking for agricultural work would be screened at the border, where malcontents can most easily be turned back.

The current H–2A agricultural worker program only supplies about 2–3 percent of the farm workforce. That means that the great majority of workers who pick our fruit and vegetables have never been through security screening. In a post-9/11 world, this is simply intolerable. Workers that are here to work in jobs native-born Americans are not willing to do must stay if food production is to remain adequate. However, those already here and new workers from overseas should have a screening system that works, both for our safety and for their human rights. Your bill does just that.

Sincerely,

GROVER G. NORQUIST,
President.

POTOMAC, MD, *April 13, 2005.*

Hon. LARRY CRAIG,
U.S. Senate,
Washington, DC.

DEAR SENATOR CRAIG: History demonstrates that there are moments in time when special opportunities arise for political action that successfully addresses multiple challenges. Today is one of those occasions. The opportunity is Senator Larry Craig's AgJobs bill, S. 359.

News headlines are alerting American voters of concerns about our trade deficit,

American jobs lost to off-shore competition, long-term funding of the Social Security system, and a seemingly irreversible pattern of increasing illegal immigration. A significant opportunity for political action that begins to address all of these challenges is within reach.

That opportunity, if taken, will strengthen American labor-intensive agriculture and ensure its future role as a major U.S. export industry. A growing agriculture sector will keep jobs in America, because studies show that every laborer in production agriculture generates 3.5 additional jobs in related businesses. The workers in all these jobs will be participants in the Social Security system that is dependent upon a large workforce. Perhaps most significantly, reputable studies confirm that the best solution for stemming the tide of illegal immigration is guest worker programs that function.

Government statistics and other evidence suggest that at least 50 percent and perhaps 70 percent of the current agricultural workforce is not in this country legally. The immediate reaction of some is to say that these workers have broken the law and should be deported, and that U.S. farmers would not have a labor problem if wages were increased.

That ''easy'' answer ignores the reality that few Americans are drawn to highly seasonal and physically demanding work in agriculture. At chaotic harvest times, a stable, dependable workforce is essential. My experience over many years tells me that agricultural employers do not want to hire illegal immigrants. What they want is a stable, viable program with integrity that will meet their labor force needs in a timely, effective way. What they do not want is a program with major shortcomings, for which they will inevitably be blamed. Unfortunately, that is what our laws have imposed upon them.

As a Nation, we can and must do better—for agricultural employers, for immigrant workers, and as insurance to secure a strong agriculture business sector. Many of these workers have come to the U.S. on a regular basis. Many have lived here for years doing our toughest jobs, and some would like to earn the privilege of living here permanently. Why not permit them to do so, over a specified timeframe, thereby keeping the best workers here? That has the additional advantage of permitting our government to better focus its limited monitoring/enforcement resources, particularly where security may be a concern. Let's use entry/exit tracking, tamper proof documentation, biometric identification, etc. where it will truly pay security dividends, and let's stop painting all immigrants with the same brush.

A limited, earned legalization for agriculture is nothing like an amnesty program. It would apply only to immigrants who are at work, paying taxes, and are willing to earn their way to citizenship so that they too can share in the American dream. These workers form the foundation of much of our Nation's agricultural workforce. We need them!

Agricultural employers need an updated guest work program to replace the antiquated ''H2A'' temporary worker system, which is too expensive and too bureaucratic to be of practical use. Necessary reforms include fair and stronger security and identification measures, market-based wage rates, and comprehensive application procedures.

The reform program I have outlined already has broad bipartisan support, thanks to the good work and leadership of Senators LARRY CRAIG and TED KENNEDY, among others, and a bipartisan group of House colleagues. Their approach deserves immediate and serious consideration by the Senate. The status quo is simply unacceptable. The reforms now being proposed are a practical solution to a serious problem that is a genuine threat to the future of American agriculture.

As President Bush has stated, we can and must do better to match a willing and hard-working immigrant worker with producers who are in desperate need of a lawful workforce. It is in our great country's interest to enact these reforms and reap the harvest of political action at a special moment in time.

Sincerely,

CLAYTON YEUTTER,
Former Secretary of Agriculture and Former U.S. Trade Representative.

APRIL 11, 2005.

DEAR MEMBER OF CONGRESS: The undersigned organizations and individuals, representing a broad cross-section of America, join together to ask you to support enactment of S. 359 and H.R. 884, the Agricultural Job Opportunities, Benefits and Security Act of 2005 (AgJOBS). This landmark bipartisan legislation would achieve historic reforms to our nation's labor and immigration laws as they pertain to agriculture. The legislation reflects years of negotiations on complex and contentious issues among employer and worker representatives and leaders in Congress.

A growing number of our leaders in Congress, as well as the President, recognize that our nation's immigration policy is flawed and that, from virtually every perspective, the status quo is untenable. America needs reforms that are compassionate, realistic and economically sensible—reforms that also enhance the rule of law and contribute to national security. AgJOBS represents the coming together of historic adversaries in a rare opportunity to achieve reforms supportive of these goals, as well as our nation's agricultural productivity and food security.

AgJOBS represents a balanced solution for American agriculture, a critical element of a comprehensive solution, and one that can be enacted now with broad bipartisan support. For these reasons, we join together to encourage the Congress to enact promptly S. 359 and H.R. 884, the Agricultural Job Opportunities, Benefits, and Security Act of 2005.

Thank you.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 496

Mr. COCHRAN. Mr. President, I have requests to make in behalf of the managers of the bill with respect to amendments that have been cleared on both sides of the aisle.

I call up amendment No. 496 on behalf of Mr. REID of Nevada which is technical in nature.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] for Mr. REID, proposes an amendment numbered 496.

Mr. COCHRAN. 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 amend title XVIII of the Social Security Act to make a technical correction regarding the entities eligible to participate in the Health Care Infrastructure Improvement Program, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. TECHNICAL CORRECTION TO THE MEDICARE HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 1897(c) of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''or an entity described in paragraph (3)'' after ''means a hospital''; and

(B) in subparagraph (B)—

(i) by inserting ''legislature'' after ''State'' the first place it appears; and

(ii) by inserting ''and such designation by the State legislature occurred prior to December 8, 2003'' before the period at the end; and

(2) by adding at the end the following new paragraph:

''(3) ENTITY DESCRIBED.—An entity described in this paragraph is an entity that—

''(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

''(B) has at least 1 existing memorandum of understanding or affiliation agreement with a hospital located in the State in which the entity is located; and

''(C) retains clinical outpatient treatment for cancer on site as well as lab research and education and outreach for cancer in the same facility.''.

(b) LIMITATION ON REVIEW.—Section 1897 of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended by adding at the end the following new subsection:

''(i) LIMITATION ON REVIEW.—There shall be no administrative or judicial review of any determination made by the Secretary under this section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2447).

Mr. COCHRAN. Mr. President, I think we can have a voice vote on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 496) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 473

Mr. COCHRAN. Mr. President, I call up amendment No. 473 on my own behalf regarding the business and industry loan program.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN] proposes an amendment numbered 473.

Mr. COCHRAN. 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 limit the use of funds to deny the provision of certain business and industry direct and guaranteed loans)

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. None of the funds made available by this or any other Act may be used to deny

the provision of assistance under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)) solely due to the failure of the Secretary of Labor to respond to a request to certify assistance within the time period specified in section 310B(d)(4) of that Act.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 473) was agreed to.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 536

Mr. COCHRAN. Mr. President, I send to the desk an amendment on behalf of Mr. BOND regarding insurance fee requirements.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. BOND, proposes an amendment numbered 536.

Mr. COCHRAN. 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: Make technical correction to mortgage insurance fee requirements contained in the FY 2005 Omnibus Appropriations bill)

Insert the following (and renumber if appropriate) on page 231, after line 3:

''SEC. 6047. (a) Section 222 of title II of Division I of Public Law 108–447 is deleted; and

(b) Section 203(c)(1) of the National Housing Act (12 U.S.C. 1709(c)) is amended by—

(1) striking ''subsections'' and inserting ''subsection'', and

(2) striking ''or (k)'' each place that it appears.''.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 536) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 491

Mr. COCHRAN. Mr. President, I call up amendment No. 491 on behalf of Mr. MCCONNELL regarding debt relief in tsunami-affected countries.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for Mr. MCCONNELL, proposes an amendment numbered 491.

Mr. COCHRAN. 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 provide deferral and rescheduling of debt to tsunami affected countries)

On page 194, line 19 after the colon insert the following:

Provided further, That the President is hereby authorized to defer and reschedule for such period as he may deem appropriate any amounts owed to the United States or any agency of the United States by those countries significantly affected by the tsunami and earthquakes of December 2004, including the Republic of Indonesia, the Republic of Maldives and the Democratic Socialist Republic of Sri Lanka; *Provided further,* That of the funds appropriated under this heading, up to $45,000,000 may be made available for the modification costs, as defined in section 502 of the Congressional Budget Act of 1974, if any, associated with any deferral and rescheduling authorized under this heading: *Provided further,* That such amounts shall not be considered ''assistance'' for the purposes of provisions of law limiting assistance to any such affected country:

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 491) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 492

Mr. COCHRAN. Mr. President, I call up amendment No. 492 on behalf of Mr. LEAHY regarding Nepal.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], FOR MR. LEAHY, proposes an amendment numbered 492.

Mr. COCHRAN. 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 express the Sense of the Senate in support of the immediate release from detention of political detainees and the restoration of constitutional liberties and democracy in Nepal)

At the appropriate place in the bill, insert the following:

NEPAL

SEC. (a) FINDINGS.—The Senate makes the following findings—

Whereas, on February 1, 2005, Nepal's King Gyanendra dissolved the multi-party government, suspended constitutional liberties, and arrested political party leaders, human rights activists and representatives of civil society organizations.

Whereas, despite condemnation of the King's actions and the suspension of military aid to Nepal by India and Great Britain, and similar steps by the United States, the King has refused to restore constitutional liberties and democracy.

Whereas, there are concerns that the King's actions will strengthen Nepal's Maoist insurgency.

Whereas, while some political leaders have been released from custody, there have been new arrests of human rights activists and representatives of other civil society organizations.

Whereas, the King has thwarted efforts of member of the National Human Rights Commission to conduct monitoring activities, but recently agreed to permit the United Nations High Commissioners for Human Rights to open an office in Katmandu to monitor and investigate violations.

Whereas, the Maoists have committed atrocities against civilians and poses a threat to democracy in Nepal.

Whereas, the Nepalese Army has also committed gross violations of human rights.

Whereas, King Gyanendra has said that he intends to pursue a military strategy against the Maoists.

Whereas, Nepal needs an effective military strategy to counter the Maoists and pressure them to negotiate an end to the conflict, but such a strategy must include the Nepalese Army's respect for the human rights and dignity of the Nepalese people.

Whereas, an effective strategy to counter the Maoists also requires a political process that is inclusive and democratic in which constitutional rights are protected, and government policies that improve the lives of the Nepalese people.

(b) Whereas, now therefore, be it

Resolved, That it is the Sense of the Senate that King Gyanendra should immediately release all political detainees, restore constitutional liberties, and undertake good faith negotiations with the leaders of Nepal's political parties to restore democracy.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 492) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I ask unanimous consent that it be in order that three amendments en bloc be called up.

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

AMENDMENTS NOS. 388, 443, 459, AND 537

Mr. REID. Mr. President, I send to the desk amendments on behalf of Mr. DURBIN, No. 443; Mr. BAYH, No. 338; Mr. BIDEN, No. 537; and Mr. FEINGOLD, No. 459; and I ask unanimous consent that they be set aside.

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

The amendments en bloc are as follows:

AMENDMENT NO. 388

(Purpose: To appropriate an additional $742,000,000 for Other Procurement, Army, for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs))

On page 169, between lines 8 and 9, insert the following:

UP ARMORED HIGH MOBILITY MULTIPURPOSE WHEELED VEHICLES

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading ''OTHER PROCUREMENT, ARMY'' is hereby increased by $742,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OTHER PROCUREMENT, ARMY'', as increased by subsection (a), $742,000,000 shall be available for the procurement of up to 3,300 Up Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMVs).

(c) REPORTS.—(1) Not later 60 days after the date of the enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the current requirements of the Armed Forces for armored security vehicles.

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the most effective and efficient options available to the Department of Defense for transporting Up Armored High Mobility Multipurpose Wheeled Vehicles to Iraq and Afghanistan.

AMENDMENT NO. 443

Purpose: To affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment under any circumstances)

On page 231, after line 3, insert the following:

AFFIRMING THE PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT

SEC. 6047. (a)(1) None of the funds appropriated or otherwise made available by this Act shall be obligated or expended to subject any person in the custody or under the physical control of the United States to torture or cruel, inhuman, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(b) As used in this section—

(1) the term ''torture'' has the meaning given that term in section 2340(1) of title 18, United States Code; and

(2) the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States.

AMENDMENT NO. 459

(Purpose: To extend the termination date of Office of the Special Inspector General for Iraq Reconstruction, expand the duties of the Inspector General, and provide additional funds for the Office)

On page 169, between lines 8 and 9, insert the following:

OFFICE OF THE SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

SEC. 1122. (a) Subsection (o) of section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234; 5 U.S.C. App. 3 section 8G note), as amended by section 1203(j) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2081) is amended by striking ''obligated'' and inserting ''expended''.

(b) Subsection (f)(1) of such section is amended in the matter preceding subparagraph (A) by inserting ''appropriated funds by the Coalition Provisional Authority in Iraq during the period from May 1, 2003 through June 28, 2004 and'' after ''expenditure of''.

(c) Notwithstanding any other provision of law, of the amount appropriated in chapter 2 of title II of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1224) under the heading ''OTHER BILATERAL ECONOMIC ASSISTANCE'' and under the subheading ''IRAQ RELIEF AND RECONSTRUCTION FUND'', $50,000,000 shall be available to carry out section 3001 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 117 Stat. 1234). Such amount shall be in addition to any other amount available for such purpose and available until the date of the termination of the Office of the Special Inspector General for Iraq Reconstruction.

AMENDMENT NO. 537

(Purpose: To provide funds for the security and stabilization of Iraq and Afghanistan and for other defense-related activities by suspending a portion of the reduction in the highest income tax rate for individual taxpayers)

At the appropriate place, insert the following:

SEC. ____. (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ AND AFGHANISTAN AND FOR OTHER DEFENSE-RELATED ACTIVITIES THROUGH PARTIAL SUSPENSION OF REDUCTION IN HIGHEST INCOME TAX RATE FOR INDIVIDUAL TAXPAYERS.—The table contained in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 (relating to (relating to reductions in rates after June 30, 2001) is amended to read as follows:

''In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003, 2004, and 2005	25.0%	28.0%	33.0%	35.0%
2006 and thereafter	25.0%	28.0%	33.0%	38.6%''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

(c) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

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

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

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

RETIREMENT OF MARK FITZGERALD

Mr. ISAKSON. Mr. President, as we are in the midst of this important debate on the war supplemental, immigration, and other pressing issues, all over America things are happening that don't always make it to this floor.

This week in my State and in my home city, where I was born, Atlanta, GA, there will be a retirement. Mr. Mark Fitzgerald will retire from his years of service with the Home Builders Association of Metropolitan Atlanta, an association he has built to become one of the largest in the United States of America. He will be honored. There will be testimonials. There will be gifts. But the greatest gift is the service he and his association have given to the economy of our State, for the betterment of our State, and in the entrepreneurship and freedom that we all love in this great country of ours.

So I want to pause this moment and let the RECORD of the Senate reflect that this week, as we debate the issues of the day, all over America there are those who have given their lives in service to their country through the free enterprise system.

Today and this week, in Georgia, one Mark Fitzgerald is one who will be honored. I commend him for his service, his commitment, and his citizenship in this great country and in our home State.

CAMERAS IN THE COURTROOM

Mr. FEINGOLD. Mr. President, I am proud to once again support the Grassley-Schumer bill on cameras in the courtroom. This proposal was reported by the Judiciary Committee on a bipartisan vote in the last two congresses, and I very much hope we can get it signed into law this year.

When the workings of Government are transparent, the people understand their Government better and can more constructively participate in it. They can also more easily hold their public officials accountable. I believe this principle can and should be applied to the judicial as well as the legislative and executive branches of Government, while still respecting the unique role of the Federal judiciary.

We have a long tradition of press access to trials, but in this day and age, it is no longer sufficient to read in the morning paper what happened in a trial the day before. The public wants to see for itself what goes on in our courts of law and I think it should be allowed to do so.

Concerns about cameras interfering with the fair administration of justice in this county are, I believe, overstated. Experience in the State courts—and the vast majority of States now allow trials to be televised—has shown that it is possible to permit the public to see trials on television without compromising the defendant's right to a fair trial or the safety or privacy interests of witnesses and jurors.

There is no question in my mind that the highly trained judges and lawyers who sit on and argue before our Nation's Federal appellate courts would continue to conduct themselves with dignity and professionalism if cameras were recording their work.

Let me note also that I believe the arguments against allowing cameras in the courtroom are least persuasive in the case of appellate proceedings, including the Supreme Court. In fact, I had the opportunity to watch the oral argument when the Supreme Court considered the constitutionality of the McCain-Feingold bill in 2003. It was a fascinating experience, and one that I wish all Americans could have. Of course, the entire country was able to hear delayed audio feeds of the two Supreme Court oral arguments in Bush v. Gore and the arguments on affirmative action. This allowed the public and important look at the making of decisions that affect them in a profound way. Seeing the arguments live would have been even better. I do not believe that a discreet camera in the courtroom would have changed the character or quality of the arguments one iota.

My State of Wisconsin has a long and proud tradition of open government, and it has served us well. Coming from that tradition, I look with skepticism on any remnant of secrecy that lingers in our governmental processes. Trials and court hearings are public proceedings, paid for by the taxpayers. Except in the most rare and unusual circumstances, the public is entitled to see what happens in those proceedings.

The bill that my friends from Iowa and New York have proposed is a responsible and measured bill. It gives discretion to individual Federal judges to allow cameras in their courtrooms. At the same time, it assures that witnesses will be able to request that their identities not be revealed in televised proceedings. This bill gives deference to the experience and judgment of Federal judges who remain in charge of their own courtrooms. That is the right approach.

Cameras in the courtroom is an idea whose time came some time ago. It is high time we brought it to the Federal courts. I am proud to support the Grassley-Schumer bill, and I hope we can enact it this year.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

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

Last March, a Bronx man was assaulted by a group of teenagers because of his sexual orientation. The teenage boys allegedly jumped the man near his home on the evening of March 19, 2005. The assailants repeatedly punched and kicked the man while yelling antigay epithets.

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

MEDICAL MALPRACTICE

Mr. GRASSLEY. Mr. President, one of my constituents, James W. Carney, an attorney practicing in Des Moines, IA, recently requested that I bring to the attention of my colleagues in the Senate some aspects of the medical malpractice situation in Iowa he believes should be more widely known. I ask unanimous consent that his March 30 letter to me, and his e-mail to John Whitaker, a Representative in the Iowa State House of Representatives, be printed in the RECORD.

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

CARNEY, APPLEBY,
KIELSEN & SKINNER, P.L.C.,
Des Moines, IA, March 30, 2005.

Re medical malpractice reform.

Senator CHARLES GRASSLEY,
Federal Building,
Des Moines, IA.

DEAR SENATOR GRASSLEY: I was just listening to WHO and heard your comment that if we had medical malpractice reform we wouldn't have to perform all the tests that are unneeded. As a supporter of yours going back to the days when you were in the Iowa Capitol, I cry foul. I am attaching an email which we sent to all members of the Iowa Legislature.

I would request that you make known to the US Senate the true facts of what is going out in real Iowa—real America.

Malpractice cases are down 29.6% over the last three years. Civil filings are down in the state of Iowa. Civil jury trials are down in the state of Iowa. There were only 22 malpractice cases tried in the entire state of Iowa last year. Verdicts are down.

Meahwhile, guess what? Our physicians are having their malpractice premiums increased by 10, 15 and 20%. It is ridiculous to blame lawyers.

Doctors perform tests because they believe it is the best patient care and the tests are necessary. I have yet to talk to a doctor who is willing to admit that the only reason they perform a test is because they fear they are going to be sued or it might be malpractice. Doctors perform tests because their patients deserve the best medical care they can give them. I believe they are motivated from an altruistic point of view and they truly care about their patients. I have heard it said many times that it might also be in their best financial interest to order tests, as they obviously get paid for the services. Blaming Iowa lawyers for unnecessary medical tests is like blaming a farmer for drought or floods. I am attaching the civil filing statistics from the Supreme Court of the State of Iowa. I hope these come in handy for your reference the next time you are asked about malpractice. You have always been a very no-nonsense guy and a person driven by the facts. These are the facts. As my mentor, Mr. Jones, used to say ''end of report''.

Thank you for your good service in the US Senate, but I sure hope this information may help you on the issue of medical malpractice. In my home town of Centerville, I can assure you the number one issue for doctors is Medicaid-Medicare reimbursement—not malpractice. The second major issue for them is lifestyle and the fact that they have very few nights and/or weekends off. The third issue is culture and/or the lack of such. Way down the list malpractice, because there has never even been a malpractice case filed in approximately half the counties in Iowa.

Sincerely yours,

JAMES W. CARNEY.

Although you hear all types of stories about lawsuits and anecdotal stories about litigation, you should know what the facts are here in Iowa. It is the farthest thing from the truth to argue that Iowa is a litigious state. Consider the following:

Fact 1: Medical malpractice lawsuits are down 29.6% over the last three years.

Fact 2: According to the National Association of Insurance Commissioners own reporting, Iowa has one of the lowest loss experiences in the United States. Medical malpractice insurance companies collected over $60 million in premiums from Iowa physicians and paid out $41 million for direct losses, defense and cost containment expenses. The Iowa loss ratio is 67.64%, one of the lowest in the country.

Fact 3: Independent rating services substantiate that capping recoveries will not have any effect on insurance premiums or the availability of insurance.

Fact 4: Iowa has already adopted significant tort reform measures, and because of this, is rated as having one of the most reasonable and fair litigation systems in the United States by the U.S. Chamber of Commerce.

Iowa's civil justice system, conservative jurors and low verdicts are not the cause of high insurance rates for Iowa physicians. Caps on non-economic damages will not do anything to help Iowa physicians obtain lower insurance premiums. Caps will hurt innocent Iowa citizens who, through no fault of their own, have been severely injured. Should not professionals who cause injuries to innocent patients be responsible for their negligent conduct?

ADDITIONAL STATEMENTS

HONORING STUDENTS FROM WEST WARWICK HIGH SCHOOL

• Mr. CHAFEE. Mr. President, from April 30 to May 2, 2005, more than 1,200 students from across the United States will visit Washington, D.C. to take part in the national finals of ''We the People: The Citizen and the Constitution,'' an educational program developed specifically to educate young people about the U.S. Constitution and Bill of Rights. Administered by the Center for Civic Education, the ''We the People'' program is funded by the U.S. Department of Education by an act of Congress.

I am proud to announce that, because of their knowledge of the U.S. Constitution, the following students from West Warwick High School from the

city of West Warwick will represent the State of Rhode Island in this national event: Mikaela Condon, Ahmahd Elshanawany, Michela Fleury, Katelyn Grandchamp, Jaclyn Henry, Katelyn Kelly, Shaina Lamchick, Adam Larocque, Lyndsey Miller, Johnathon Myers, Cheryl Nary, Amanda Simas, William Stranahan, Larissa Swenson, and David Yates. Led by their teacher Mr. Marc Leblanc, these outstanding students won their statewide competition and earned the chance to come to Washington and compete at the national level.

The three-day ''We the People'' National Finals Competition is modeled after hearings in the U.S. Congress. The students are given an opportunity to demonstrate their knowledge before a panel of judges while they evaluate, take, and defend positions on relevant historical and contemporary issues.

I wish the students of West Warwick High School the best of luck at the ''We the People'' national finals and applaud their achievement. I am sure this valuable experience will encourage these young Rhode Islanders to remain engaged with government and public policy issues in the future.●

HONORING ANNE L. BLUMENBERG

● Mr. SARBANES. Mr. President, I rise today to pay special tribute to Anne L. Blumenberg, one of Baltimore's most skillful attorneys and equally one of its most dedicated and visionary citizens. Anne recently retired as executive director of the Community Law Center, which develops innovative legal strategies to assist Baltimore's community organizations and neighborhoods.

Anne was born and raised in Baltimore's Waverly neighborhood, and she returned to Baltimore after receiving her law degree from Catholic University's Columbus School of Law. In 1983, she and a group of like-minded lawyers and community activists founded the Community Law Center. In its early days the center focused primarily on public safety as the path to neighborhood survival, depending on volunteer lawyers to carry out its work. Under Anne's leadership, the center's attorneys pioneered the use of nuisance laws as a litigation strategy to address quality-of-life issues, including housing conditions and drug activity, in Baltimore neighborhoods. The center had such great success with these suits that in 1996, the Maryland General Assembly passed the community rights bill—developed in large measure by the center—granting Baltimore City community associations legal standing to seek direct enforcement of housing, building, zoning, and health codes as a remedy to a public nuisance.

Recognizing that creating healthy neighborhoods begins but does not end with public safety, Anne Blumenberg expanded the Community Law Center's programs to include economic development and real estate issues. Today the center has successful projects to end predatory lending and flipping practices and to end the blight of vacant properties in city neighborhoods. Further, the volunteer spirit that gave the center its start lives on in its pro bono project, which currently has 185 active pro bono attorneys and has opened over 500 cases serving hundreds of organizations in the Baltimore area.

In addition to the hours she has dedicated to the Community Law Center, Anne Blumenberg has generously donated her time to serve as a board member to numerous other community organizations, including Civil Justice, Inc., Empowerment Legal Services, the Coalition to End Childhood Lead Poisoning, and the Lawyer's Clearinghouse. And she has literally ''written the book'' on starting a nonprofit organization: her manual, ''Starting a Non-Profit Organization: A Practical Guide,'' is now in its fourth edition.

Anne Blumenberg was truly a visionary. She saw, earlier than most, how legal tools could be used to improve the lives of some of the city of Baltimore's poorest and most vulnerable citizens, and she transformed her vision into a creative, vigorous and effective public services law firm. As a result of the programs Anne Blumenberg built at the Community Law Center, Baltimore's neighborhoods have come alive again. Residents now have the tools they need to fight the flipping of homes by unscrupulous lenders; to remove drug dealers from their corners; to acquire vacant houses, renovate them, and put them up for sale; and more broadly, to promote citywide policies that will improve the quality of their lives. In short, thanks to Anne Blumenberg's hard work and dedication, Baltimoreans are once again in control of their neighborhoods, and the neighborhoods, which do so much to define Baltimore's character, are blooming.●

HONORING THE RETIREMENT OF ROBERT H. MCKINNEY

● Mr. LUGAR. Mr. President, I inform my colleagues of the retirement of a remarkable figure in my home State of Indiana, Robert H. McKinney.

Bob McKinney has been a friend of mine since my days as Mayor of Indianapolis. During that time he was critical to the passage of Uni-Gov, the massive restructuring of the boundaries and governmental structure of the City of Indianapolis. His bipartisan support of this shared vision was instrumental in allowing for the progress and prosperity of Indianapolis.

Bob's commitment to public service began at an early age. After graduating from the United States Naval Academy Bob, served for 3 years in the Pacific Theater. Additionally, he served two more years in the Pacific during the Korean War. He is a fine product of both the Naval Justice School and the Indiana University School of Law. Bob also holds Honorary Doctorates of Law from Marian College and Butler University.

Supplementing his impressive academic and military careers, Bob remains a consistent voice in public service throughout the State of Indiana and nationally. From 1989 to 1998 he was a trustee of Indiana University, including a term as President of the Board from 1993–1994. He was Chairman of the Board of Advisors of Indiana University-Purdue University at Indianapolis and was formerly a director and Chairman of the Board of Trustees of Marian College. Additionally, as a trustee of the Hudson Institute, the U.S. Naval Academy Foundation, the Indiana University Foundation, and the Sierra Club Foundation, Bob continues to encourage sound public policy.

During the administration of President Carter, he served as Chairman of the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, the Federal Savings & Loan Insurance Corporation, and the Neighborhood Reinvestment Corporation. Currently, he is a member of the Presidential Advisory Board for Cuba.

Bob has likewise achieved numerous successes in the private sector. After cofounding one of the largest law firms in Indianapolis, Bose McKinney & Evans LLP, Bob served as Chairman of The Somerset Group, Inc., a publicly traded financial services company. In 2000, The Somerset Group merged into the First Indiana Corporation, a publicly traded bank holding company that operates First Indiana Bank, the largest bank based in Indianapolis. Now, Bob is preparing to turn those duties over to his able daughter, Marni McKinney.

I am pleased to have had this opportunity to call to the attention of my colleagues the extraordinary accomplishments of Bob McKinney. I admire his idealism and sustained energy and I join his wife, Arlene, his five children and five grandchildren, in wishing him every continuing success as he enters this new chapter of his life.●

ACCOLADES TO REVEREND T.F. TENNEY

● Mr. VITTER. Mr. President, I thank the Reverend T.F. Tenney for more than 25 years of guidance, service and leadership throughout the great state of Louisiana.

I recognize Reverend T.F. Tenney, United Pentecostal Church District Superintendent for the State of Louisiana. Reverend Tenney retired on March 31, 2005, after 26 years of service in central Louisiana and throughout the state. More than 4,000 people came to offer heartfelt appreciation and best wishes at his retirement ceremony.

Through his role as district superintendent, he was responsible for overseeing all of Louisiana's United Pentecostal Churches. During his 26 years of service, he created a level of stability in the church and brought the United

Pentecostal Church to a new level. His professionalism and guidance in handling Louisiana's churches and their congregations will be missed, as well as his great wisdom and leadership.

I personally commend, honor and thank Reverend Tenney on the occasion of his retirement from service to the people of Louisiana after 26 years as United Pentecostal Church District Superintendent for the State of Louisiana.●

CONGRATULATIONS TO ''WE THE PEOPLE'' FINALISTS FROM THE STATE OF ARKANSAS

● Mr. PRYOR. Mr. President, I congratulate students from Valley View High School in Jonesboro, AR for winning their statewide competition and earning the chance to come to our Nation's capital to compete in the national finals of ''We the People: The Citizen and the Constitution''. Led by their teacher Dana Shoemaker, students Jarrett Clark, Virginia Gray, Tyler Isbell, Zachery Lesley, Ryan McCormack, Ashley Perryman, Whitney Philamlee, Olga Redko, Elizabeth Renshaw, Laura Stahl, and Molly Throgmorton will join more than 1,200 students from across the country to take part in the weekend-long competition.

''We the People'' is a nationwide program developed specifically to educate young people about the U.S. Constitution and Bill of Rights. The program is funded by the U.S. Department of Education, and it provides a unique and valuable opportunity for high school students to learn about the foundations of the Federal Government while spending time in Washington, D.C., the center of American civic engagement.

It is a wonderful thing that these students have taken such an interest in government and the political system. The vibrancy of our democracy depends on the active participation of its citizens. And with every new generation, we are faced with the challenge of educating our future leaders in the value of civic engagement. I am happy that the parents and teachers of these students from Jonesboro are meeting that important challenge and that the students are taking an active role in their own education by participating in such an enriching program.

While in Washington, the students will participate in a 3-day academic competition that simulates a congressional hearing, in which they testify before a panel of judges. Students demonstrate their knowledge and understanding of constitutional principles and have opportunities to evaluate and debate positions on relevant historical and contemporary issues. It is important to note that the Educational Testing Service—ETS, the world's largest private educational testing and research organization, characterizes the ''We the People'' program as a ''great instructional success.'' Independent studies by ETS have revealed that ''We the People'' students ''significantly outperformed comparison students on every topic of the tests taken.'' I am delighted that the Valley View Blazers can take advantage of such a great opportunity.

These 11 students from Jonesboro certainly deserve recognition for their hard work and talent. Through their knowledge of the U.S. Constitution and our political system, they have earned the right to compete at the highest level. I am proud that such fine young ladies and gentlemen will be representing my state on the national stage, and I am honored to acknowledge their accomplishment.

I wish these students the best of luck at the ''We the People'' national finals, and I applaud their outstanding achievement.●

WORLD WAR II REMEMBRANCE

● Mrs. MURRAY. Mr. President, I rise today to share with you a remarkable story from World War II and the remembrance shown by our friends in Germany.

Lindlar, Germany a small town outside of Cologne, is honoring the memory of an American war hero who lost his life during WWII. First Lieutenant Victor Rutkowski was a 24 year old, B–17 co-pilot assigned to the 390th Bombardment Group stationed in England. Lindlar will be dedicating a monument to Victor's memory and holding a memorial service to honor him this weekend.

Doug Johnson was the pilot of the B–17 during Victor's last mission. The following is his account of that final mission.

Oct 15, 1944: My 35th and final mission started about like most of the others we had flown during the previous few months. Two of our earlier missions had extended all the way from England, over Germany landing in Russia for a short stay. Leaving Russia and bombing in Poland and Rumania before proceeding on to Italy for a couple days before our final leg back into Framlingham, England. But this time we were going on a relatively short mission to Cologne, Germany. We were to fly the lead position, high element of ''B'' squadron. Take off went according to schedule and we were airborne at about 0534. Climb out and assembly was simply routine. We reached the IP and turned toward the target area. No enemy fighters were sighted and it looked like the flak was going to be light and inaccurate. Hey, this was going to be a piece of cake.

Just before bombs away the flak became moderate and their gunners were beginning to home in on us. Suddenly we received a burst right under the right wing. We lost number 4 engine and Victor Rutkowski, my co-pilot, feathered it immediately then informed me that number three engine was on fire. Now things were beginning to get pretty tense. We attempted to extinguish the fire with no success and it's about time for bombs away. We continued and dropped our bombs in the target area. We notified the squadron leader and immediately pulled away from the formation. I called out on the intercom that ''we had better get out of here before this plane blows up''. Things looked pretty bad. I called back later to the crew but got no answer because all of them except the co-pilot, engineer and myself had already bailed out.

The fire continued in number 3 engine so the engineer bailed out and Victor followed him. I climbed down to bail out but decided to take one last look at number 3. The fire appeared to have gone out. The plane was in a slight dive as I climbed back into the seat. Upon returning the plane to level flight I noticed that the fire re appeared. I then put the plane in a fairly steep dive. I remember saying to myself ''come on baby we've gotten this far, don't blow up on me now''. The fire blew out shortly thereafter. My luck was still holding.

I was down to about 4000 feet by now and found myself flying through some more flak, and small arms fire. I didn't realize at the time that I was flying directly over the ground fighting between our troops and the Germans somewhere north of Aachen. I really did not know who was shooting at me then but luckily I was out of it in a minute or so. I finally contacted a P–47 fighter pilot in the area who led me into St. Trond, Belgium, Site A92, where the landing was not the best I had ever made. A flat right tire that had been shot out by flak didn't help. After exiting the plane and walking around to inspect the damage, I noticed that the tail gunner was still at his post. A flak burst had killed him. The plane had about 200 holes in it and the fuel was still leaking from the number 3 engine. I still can't figure out why that plane didn't blow up.

I later learned that my co pilot was killed on the ground by German civilians and that my bombardier had been wounded but evaded and my engineer also escaped capture and returned to base. The rest of my crew spent the balance of the war as POWs.

A truly remarkable story that speaks vividly to the sacrifice soldiers such as Victor made fighting for their countries.

I would like to commend the citizens of Lindlar for honoring the memory of Victor Rutkowski and all those who died during in WorId War II. I would like to add the thanks of the Rutkowski family and the United States Senate to Lindlar for this special tribute.●

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on Friday, April 15, 2005, she had presented to the President of the United States the following enrolled bill:

S. 256. An act to amend title II of the United States Code, 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–1767. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Subsistence Harvest in Alaska; Harvest Regulations for Migratory Birds in Alaska During the 2005 Season'' (RIN1018–AT77) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1768. 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; New Mexico; Albuquerque/Bernalillo County'' (FRL NO. 7897–6) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1769. 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 ''Protection of Stratospheric Ozone: Substitute Refrigerant Recycling; Amendment to the Definition of Refrigerant'' (FRL NO. 7899–3) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1770. 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 ''Outer Continental Shelf Air Regulations Consistency Update for California'' (FRL NO. 7896–2) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1771. 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 for Source Categories: Generic Maximum Achievable Control Technology Standards; and National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations'' (FRL NO. 7899–1) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1772. 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 Implementation Plans; Texas; Agreed Orders in the Beaumont/Port Arthur Ozone Nonattainment Area'' (FRL NO. 7898–7) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1773. 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 Implementation Plans; Texas; 15% Rate-of-Progress Plan and Motor Vehicle Emissions Budgets, Dallas/Fort Worth Ozone Nonattainment Area'' (FRL NO. 7897–7) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1774. 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 Implementation Plans Georgia: Approval of Revisions to the Georgia State Implementation Plan'' (FRL NO. 7898–5) received on April 13, 2005; to the Committee on Environment and Public Works.

EC–1775. A communication from the Chief Judge, Superior Court of the District of Columbia, transmitting, pursuant to law, a report relative to the District of Columbia Family Court Act; to the Committee on Homeland Security and Governmental Affairs.

EC–1776. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Fiscal Year 2004 Annual Report on Advisory Neighborhood Commissions''; to the Committee on Homeland Security and Governmental Affairs.

EC–1777. A communication from the Solicitor, Federal Labor Relations Authority, transmitting, pursuant to law, the report of a vacancy in the position of General Counsel, received on April 13, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1778. A communication from the Acting Director, Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Absence and Leave; SES Annual Leave'' (RIN3206–AK72) received on April 13, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–1779. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, a report entitled ''Report on Acquisitions Made from Foreign Manufacturers for Fiscal Year 2004''; to the Committee on Finance.

EC–1780. 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 ''Health Reimbursement Arrangements'' (Rev. Rul. 2005–24) received on April 11, 2005; to the Committee on Finance.

EC–1781. 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 ''Appeals Settlement Guidelines: Maquiladora—Section 168(g)'' (UIL: 168.29–06) received on April 11, 2005; to the Committee on Finance.

EC–1782. 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 ''Fair Market Value in a Section 412(i) Plan'' (Rev. Proc. 2005–25) received on April 11, 2005; to the Committee on Finance.

EC–1783. 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 ''Residence and Source Rules Involving U.S. Possessions and Other Conforming Changes'' ((RIN1545–BE22) (TD 9194)) received on April 11, 2005; to the Committee on Finance.

EC–1784. 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 ''Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004'' (Notice 2005–34) received on April 11, 2005; to the Committee on Finance.

EC–1785. 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 ''Procedures for the Extended Period of Limitations on Assessment for Listed Transactions'' (Rev. Proc. 2005–26) received on April 13, 2005; to the Committee on Finance.

EC–1786. 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 ''Bureau of Labor Statistics Price Indexes for Department Stores—February 2005'' (Rev. Rul. 2005–26) received on April 13, 2005; to the Committee on Finance.

EC–1787. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Russia and Kazakhstan; to the Committee on Foreign Relations.

EC–1788. A communication from the Administrator of the Agency for International Development, transmitting, pursuant to law, a report relative to the Development Assistance and Child Survival and Health Programs Allocations; to the Committee on Foreign Relations.

EC–1789. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–1790. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a correction to the Department's Fiscal Year 2000 report relative to the Arms Export Control Act; to the Committee on Foreign Relations.

EC–1791. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a draft bill to reauthorize United States participation in and appropriations for the U.S. contribution to, the tenth replenishment of the resources of the African Development Fund, received on April 11, 2005; to the Committee on Foreign Relations .

EC–1792. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a draft bill to reauthorize United States participation in and appropriations for the U.S. contribution to, the fourteenth replenishment of the resources of the International Development Association, received on April 11, 2005; to the Committee on Foreign Relations.

EC–1793. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a draft bill ''To expand the list of statutes contained in the original HIPC debt reduction legislation to include the Lend-Lease Act of 1941'', received on April 11, 2005; to the Committee on Foreign Relations.

EC–1794. A communication from the General Counsel, Department of the Treasury, transmitting, pursuant to law, the report of a draft bill to reauthorize United States participation in and appropriations for the U.S. contribution to, the eighth replenishment of the resources of the Asian Development Fund, received on April 11, 2005; to the Committee on Foreign Relations .

EC–1795. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the web site address of reports entitled ''Supporting Democracy and Human Rights: The U.S. Record 2004–2005'' and ''Country Reports on Human Rights Practices'' prepared

by the Bureau of Democracy, Human Rights and Labor, Department of State; to the Committee on Foreign Relations.

EC–1796. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–1797. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled ''Update on Progress Toward Regional Nuclear Nonproliferation in South Asia''; to the Committee on Foreign Relations.

EC–1798. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a report entitled ''Overseas Surplus Property''; to the Committee on Foreign Relations.

EC–1799. A communication from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Abatement of Highway Traffic Noise and Construction Noise'' (RIN2125–AF03) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1800. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operations (Including 4 Regulations): [CGD01–04–129], [CGD01–04–127], [CGD01–04–047], [CGD01–04–143]'' (RIN1625–AA09) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1801. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operations (Including 4 Regulations): [CGD01–05–019], [CGD08–05–017], [CGD01–05–023], [CGD08–05–018]'' (RIN1625–AA09) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1802. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones (Including 3 Regulations): [CGD05–05–007], [CGD05–05–021], [COTP Jacksonville 05–033]'' (RIN1625–AA00) received on April 12, 2005; to the Committee on Commerce, Science , and Transportation.

EC–1803. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones (Including 2 Regulations): [CGD01–05–011], [COTP San Francisco Bay 05–003]'' (RIN1625–AA00) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1804. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Terms Imposed by States on Numbering of Vessels; Electronic Submission, [USCG–2003–15708]'' (RIN1625–AA75) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1805. A communication from the Chief, Regulations and Administrative Law, U.S. Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zone; Cape Fear River, Eagle Island, North Carolina State Port Authority Terminal, Wilmington, NC, [CGD05–05–018]'' (RIN1625–AA87) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1806. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Final Rule for FMVSS No. 138, Tire Pressure Monitoring Systems'' (RIN2127–AJ23) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1807. A communication from the Senior Attorney, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Applicability of the Hazardous Regulations to Loading, Unloading, and Storage'' (RIN2137–AC68) received on April 12, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1808. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Closing Pollock in Statistical Area 620 of the Gulf of Alaska'' (I.D. No. 031805A) received on April 13, 2005; to the Committee on Commerce, Science , and Transportation.

EC–1809. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Part-time Category'' (I.D. No. 030905G) received on April 13, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1810. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, a report entitled ''Congressional Justification Budget Request for Fiscal Year 2006''; to the Committee on Rules and Administration.

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. BURNS:

S. 823. A bill to provide for the establishment of summer health career introductory programs for middle and high school students; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BURNS:

S. 824. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit to primary health providers who establish practices in health professional shortage areas; to the Committee on Finance.

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 825. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BURNS:

S. 826. A bill to provide that the conveyance of the former radar bomb scoring site to the city of Conrad, Montana, is not subject to reversion; to the Committee on Armed Services.

By Mr. FEINGOLD (for himself, Mr. SCHUMER, and Mrs. CLINTON):

S. 827. A bill to prohibit products that contain dry ultra-filtered milk products, milk protein concentrate, or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HARKIN (for himself, Mr. SPECTER, Mr. KENNEDY, Mr. GRAHAM, Mrs. CLINTON, Mr. BINGAMAN, and Mr. KERRY):

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; to the Committee on Health, Education, Labor, and Pensions.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. CORNYN, Mr. LEAHY, Mr. CRAIG, Mr. FEINGOLD, Mr. ALLEN, Mr. DURBIN, Mr. GRAHAM, Mr. DEWINE, and Mr. ALLARD):

S. 829. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

By Mr. INHOFE:

S. 830. A bill to amend the Federal Water Pollution Control Act to insert a new definition relating to oil and gas exploration and production; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 831. A bill to provide for the establishment of a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN (for himself, Mr. SMITH, Mr. BAUCUS, Mr. GRASSLEY, Mr. AKAKA, Mr. SCHUMER, and Mr. PRYOR):

S. 832. A bill to amend the Internal Revenue Code of 1986 to provide taxpayer protection and assistance, and for other purposes ; to the Committee on Finance.

By Mr. BINGAMAN:

S. 833. A bill to amend the Workforce Investment Act of 1998 to authorize the Secretary of Labor to provide for 5-year pilot projects to establish a system of industry-validated national certifications of skills in high-technology industries and a cross-disciplinary national certification of skills in homeland security technology; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN:

S. 834. A bill to amend the Workforce Investment Act of 1998 to provide for integrated workforce training programs for adults with limited English proficiency, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CRAIG (for himself and Mr. BURNS):

S. 835. A bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses; to the Committee on Finance.

By Ms. CANTWELL:

S. 836. A bill to require accurate fuel economy testing procedures; to the Committee on Environment and Public Works.

By Mr. INHOFE:

S. 837. A bill to amend the Safe Drinking Water Act to clarify the definition of the term ''underground injection''; to the Committee on Environment and Public Works.

ADDITIONAL COSPONSORS

S. 44

At the request of Mr. HAGEL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 44, a bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $100,000.

S. 58

At the request of Mr. INOUYE, the name of the Senator from Arkansas

(Mrs. LINCOLN) was added as a cosponsor of S. 58, a bill to amend title 10, United States Code, to permit former members of the Armed Forces who have a service-connected disability rated as total to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 65

At the request of Mr. INHOFE, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 65, a bill to amend the age restrictions for pilots.

S. 132

At the request of Mr. SMITH, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 132, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance.

S. 246

At the request of Mr. BUNNING, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 246, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 333

At the request of Mr. SANTORUM, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 339

At the request of Mr. REID, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 339, a bill to reaffirm the authority of States to regulate certain hunting and fishing activities.

S. 423

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 423, a bill to amend title 38, United States Code, to make a stillborn child an insurable dependent for purposes of the Servicemembers' Group Life Insurance program.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 440

At the request of Mr. BUNNING, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 473

At the request of Ms. CANTWELL, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 473, a bill to amend the Public Health Service Act to promote and improve the allied health professions.

S. 484

At the request of Mr. WARNER, the names of the Senator from Alabama (Mr. SHELBY) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 515

At the request of Mr. BYRD, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 515, a bill to amend title 32, United States Code, to increase the maximum Federal share of the costs of State programs under the National Guard Youth Challenge Program, and for other purposes.

S. 518

At the request of Mr. SESSIONS, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 518, a bill to provide for the establishment of a controlled substance monitoring program in each State.

S. 536

At the request of Mr. MCCAIN, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 536, a bill to make technical corrections to laws relating to Native Americans, and for other purposes.

S. 551

At the request of Mr. ALLARD, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 551, a bill to direct the Secretary of Veterans Affairs to establish a national cemetery for veterans in the Colorado Springs, Colorado, metropolitan area.

S. 577

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 577, a bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities.

S. 580

At the request of Mr. SMITH, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S. 580, a bill to amend the Internal Revenue Code of 1986 to allow certain modifications to be made to qualified mortgages held by a REMIC or a grantor trust.

S. 602

At the request of Ms. MIKULSKI, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 602, a bill to amend the Public Health Service Act to fund breakthroughs in Alzheimer's disease research while providing more help to caregivers and increasing public education about prevention.

S. 610

At the request of Mr. TALENT, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 610, a bill to amend the Internal Revenue Code of 1986 to provide for a small agri-biodiesel producer credit and to improve the small ethanol producer credit.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Nebraska (Mr. HAGEL), the Senator from New Jersey (Mr. CORZINE) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 675

At the request of Mr. DORGAN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 675, a bill to reward the hard work and risk of individuals who choose to live in and help preserve America's small, rural towns, and for other purposes.

S. 749

At the request of Mr. THOMAS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 749, a bill to amend the Office of Federal Procurement Policy Act to establish a governmentwide policy requiring competition in certain executive agency procurements, and for other purposes.

S. 767

At the request of Mr. BOND, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 767, a bill to establish a Division of Food and Agricultural Science within the National Science Foundation and to authorize funding for the support of fundamental agricultural research of the highest quality, and for other purposes.

S. CON. RES. 9

At the request of Mr. ENSIGN, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Con. Res. 9, a concurrent resolution recognizing the second century of Big Brothers Big Sisters, and supporting the mission and goals of that organization.

S. RES. 82

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. Res. 82, a resolution urging the European Union to add Hezbollah to the Eurpoean Union's wide-ranging list of terrorist organizations.

At the request of Mr. ALLEN, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. Res. 82, supra.

AMENDMENT NO. 338

At the request of Ms. SNOWE, the name of the Senator from Arizona (Mr.

MCCAIN) was added as a cosponsor of amendment No. 338 intended to be proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 340

At the request of Mr. DEWINE, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 340 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 387

At the request of Ms. MIKULSKI, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Wyoming (Mr . ENZI) were added as cosponsors of amendment No. 387 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 388

At the request of Mr. BAYH, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 388 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 399

At the request of Mr. DORGAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 399 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 418

At the request of Mr. CHAMBLISS, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of amendment No. 418 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 451

At the request of Mr. SCHUMER, the names of the Senator from Nevada (Mr. REID) and the Senator from Minnesota (Mr. DAYTON) were added as cosponsors of amendment No. 451 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

AMENDMENT NO. 459

At the request of Mr. FEINGOLD, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Oregon (Mr. WYDEN) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of amendment No. 459 proposed to H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 825. A bill to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CORZINE. Mr. President, today, along with Senator LAUTENBERG, I am introducing legislation, the Crossroads of the American Revolution National Heritage Area Act, to establish the Crossroads of the American Revolution National Heritage Area in the State of New Jersey. I am proud to be joining my New Jersey colleagues, Representatives RODNEY FRELINGHUYSEN and RUSH HOLT, who have introduced this legislation in the House of Representatives, with the support of the entire New Jersey delegation.

This legislation recognizes the critical role that New Jersey played during the American Revolution. In fact, New Jersey was the site of nearly 300 military engagements that helped determine the course of our history as a Nation. Many of these locations, like the site where George Washington made his historic crossing of the Delaware River, are well known and preserved. Others, such as the Monmouth Battlefield State Park in Manalapan and Freehold, and New Bridge Landing in River Edge, are less well known and are threatened by development or in critical need of funding for rehabilitation.

To help preserve New Jersey's Revolutionary War sites, this legislation would establish a Crossroads of the American Revolution National Heritage Area, linking about 250 sites in 15 counties. This designation would authorize $10 million to assist preservation, recreational and educational efforts by the State, county and local governments as well as private cultural and tourism groups. The program would be managed by the non-profit Crossroads of the American Revolution Association.

Simply put, we are the Nation that we are today because of the critical events that occurred in New Jersey during the American Revolution and the many who died fighting there. By enacting the Crossroads of the American Revolution National Heritage Area Act of 2005, we will pay tribute to the patriots who fought and died in New Jersey so that we might become a Nation free from tyranny.

In the 107th Congress, I was proud to see the Senate approve this legislation as part of a bipartisan package of heritage area bills. Unfortunately, the bill was not approved in the House of Representatives. I will work even harder in the 109th Congress to see that this important legislation passes both houses and goes to the President's desk for his signature. I hope my colleagues will support this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 825

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 ''Crossroads of the American Revolution National Heritage Area Act of 2005''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the State of New Jersey was critically important during the American Revolution because of the strategic location of the State between the British armies headquartered in New York City, New York, and the Continental Congress in the city of Philadelphia, Pennsylvania;

(2) General George Washington spent almost half of the period of the American Revolution personally commanding troops of the Continental Army in the State of New Jersey, including 2 severe winters spent in encampments in the area that is now Morristown National Historical Park, a unit of the National Park System;

(3) it was during the 10 crucial days of the American Revolution between December 25, 1776, and January 3, 1777, that General Washington, after retreating across the State of New Jersey from the State of New York to the State of Pennsylvania in the face of total defeat, recrossed the Delaware River on the night of December 25, 1776, and went on to win crucial battles at Trenton and Princeton in the State of New Jersey;

(4) Thomas Paine, who accompanied the troops during the retreat, described the events during those days as ''the times that try men's souls'';

(5) the sites of 296 military engagements are located in the State of New Jersey, including—

(A) several important battles of the American Revolution that were significant to—

(i) the outcome of the American Revolution; and

(ii) the history of the United States; and

(B) several national historic landmarks, including Washington's Crossing, the Old Trenton Barracks, and Princeton, Monmouth, and Red Bank Battlefields;

(6) additional national historic landmarks in the State of New Jersey include the homes of—

(A) Richard Stockton, Joseph Hewes, John Witherspoon, and Francis Hopkinson, signers of the Declaration of Independence;

(B) Elias Boudinout, President of the Continental Congress; and

(C) William Livingston, patriot and Governor of the State of New Jersey from 1776 to 1790;

(7) portions of the landscapes important to the strategies of the British and Continental armies, including waterways, mountains, farms, wetlands, villages, and roadways—

(A) retain the integrity of the period of the American Revolution; and

(B) offer outstanding opportunities for conservation, education, and recreation;

(8) the National Register of Historic Places lists 251 buildings and sites in the National Park Service study area for the Crossroads of the American Revolution that are associated with the period of the American Revolution;

(9) civilian populations residing in the State of New Jersey during the American Revolution suffered extreme hardships because of—

(A) the continuous conflict in the State;

(B) foraging armies; and

(C) marauding contingents of loyalist Tories and rebel sympathizers;

(10) because of the important role that the State of New Jersey played in the successful outcome of the American Revolution, there is a Federal interest in developing a regional framework to assist the State of New Jersey, local governments and organizations, and private citizens in—

(A) preserving and protecting cultural, historic, and natural resources of the period; and

(B) bringing recognition to those resources for the educational and recreational benefit of the present and future generations of citizens of the United States; and

(11) the National Park Service has conducted a national heritage area feasibility study in the State of New Jersey that demonstrates that there is a sufficient assemblage of nationally distinctive cultural, historic, and natural resources necessary to establish the Crossroads of the American Revolution National Heritage Area.

(b) PURPOSES.—The purposes of this Act are—

(1) to assist communities, organizations, and citizens in the State of New Jersey in preserving—

(A) the special historic identity of the State; and

(B) the importance of the State to the United States;

(2) to foster a close working relationship among all levels of government, the private sector, and local communities in the State;

(3) to provide for the management, preservation, protection, and interpretation of the cultural, historic, and natural resources of the State for the educational and inspirational benefit of future generations;

(4) to strengthen the value of Morristown National Historical Park as an asset to the State by—

(A) establishing a network of related historic resources, protected landscapes, educational opportunities, and events depicting the landscape of the State of New Jersey during the American Revolution; and

(B) establishing partnerships between Morristown National Historical Park and other public and privately owned resources in the Heritage Area that represent the strategic fulcrum of the American Revolution; and

(5) to authorize Federal financial and technical assistance for the purposes described in paragraphs (1) through (4).

SEC. 3. DEFINITIONS.

In this Act:

(1) ASSOCIATION.—The term ''Association'' means the Crossroads of the American Revolution Association, Inc., a nonprofit corporation in the State.

(2) HERITAGE AREA.—The term ''Heritage Area'' means the Crossroads of the American Revolution National Heritage Area established by section 4(a).

(3) MANAGEMENT ENTITY.—The term ''management entity'' means the management entity for the Heritage Area designated by section 4(d).

(4) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the Heritage Area developed under section 5.

(5) MAP.—The term ''map'' means the map entitled ''Crossroads of the American Revolution National Heritage Area'', numbered CRREL80,000, and dated April 2002.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STATE.—The term ''State'' means the State of New Jersey.

SEC. 4. CROSSROADS OF THE AMERICAN REVOLUTION NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the State the Crossroads of the American Revolution National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall consist of the land and water within the boundaries of the Heritage Area, as depicted on the map.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) MANAGEMENT ENTITY.—The Association shall be the management entity for the Heritage Area.

SEC. 5. MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are first made available to carry out this Act, the management entity shall submit to the Secretary for approval a management plan for the Heritage Area.

(b) REQUIREMENTS.—The management plan shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans;

(3) describe actions that units of local government, private organizations, and individuals have agreed to take to protect the cultural, historic, and natural resources of the Heritage Area;

(4) identify existing and potential sources of funding for the protection, management, and development of the Heritage Area during the first 5 years of implementation of the management plan; and

(5) include—

(A) an inventory of the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area relating to the themes of the Heritage Area that should be restored, managed, or developed;

(B) recommendations of policies and strategies for resource management that result in—

(i) application of appropriate land and water management techniques; and

(ii) development of intergovernmental and interagency cooperative agreements to protect the cultural, educational, historic, natural, recreational, and scenic resources of the Heritage Area;

(C) a program of implementation of the management plan that includes for the first 5 years of implementation—

(i) plans for resource protection, restoration, construction; and

(ii) specific commitments for implementation that have been made by the management entity or any government, organization, or individual;

(D) an analysis of and recommendations for ways in which Federal, State, and local programs, including programs of the National Park Service, may be best coordinated to promote the purposes of this Act; and

(E) an interpretive plan for the Heritage Area.

(c) APPROVAL OR DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after the date of receipt of the management plan under subsection (a), the Secretary shall approve or disapprove the management plan.

(2) CRITERIA.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the Board of Directors of the management entity is representative of the diverse interests of the Heritage Area, including—

(i) governments;

(ii) natural and historic resource protection organizations;

(iii) educational institutions;

(iv) businesses; and

(v) recreational organizations;

(B) the management entity provided adequate opportunity for public and governmental involvement in the preparation of the management plan, including public hearings;

(C) the resource protection and interpretation strategies in the management plan would adequately protect the cultural, historic, and natural resources of the Heritage Area; and

(D) the Secretary has received adequate assurances from the appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves the management plan under paragraph (1), the Secretary shall—

(A) advise the management entity in writing of the reasons for the disapproval;

(B) make recommendations for revisions to the management plan; and

(C) not later than 60 days after the receipt of any proposed revision of the management plan from the management entity, approve or disapprove the proposed revision.

(d) AMENDMENTS.—

(1) IN GENERAL.—The Secretary shall approve or disapprove each amendment to the management plan that the Secretary determines may make a substantial change to the management plan.

(2) USE OF FUNDS.—Funds made available under this Act shall not be expended by the management entity to implement an amendment described in paragraph (1) until the Secretary approves the amendment.

(e) IMPLEMENTATION.—On completion of the 3-year period described in subsection (a), any funding made available under this Act shall be made available to the management entity only for implementation of the approved management plan.

SEC. 6. AUTHORITIES, DUTIES, AND PROHIBITIONS APPLICABLE TO THE MANAGEMENT ENTITY.

(a) AUTHORITIES.—For purposes of preparing and implementing the management plan, the management entity may use funds made available under this Act to—

(1) make grants to, provide technical assistance to, and enter into cooperative agreements with, the State (including a political subdivision), a nonprofit organization, or any other person;

(2) hire and compensate staff, including individuals with expertise in—

(A) cultural, historic, or natural resource protection; or

(B) heritage programming;

(3) obtain funds or services from any source (including a Federal law or program);

(4) contract for goods or services; and

(5) support any other activity—

(A) that furthers the purposes of the Heritage Area; and

(B) that is consistent with the management plan.

(b) DUTIES.—In addition to developing the management plan, the management entity shall—

(1) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect, and enhance important resource values in the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs in the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for cultural, historic, and natural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings that are—

(i) located in the Heritage Area; and

(ii) related to the themes of the Heritage Area;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are installed throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Area;

(2) in preparing and implementing the management plan, consider the interests of diverse units of government, businesses, organizations, and individuals in the Heritage Area;

(3) conduct public meetings at least semiannually regarding the development and implementation of the management plan;

(4) for any fiscal year for which Federal funds are received under this Act—

(A) submit to the Secretary a report that describes for the year—

(i) the accomplishments of the management entity;

(ii) the expenses and income of the management entity; and

(iii) each entity to which a grant was made;

(B) make available for audit all information relating to the expenditure of the funds and any matching funds; and

(C) require, for all agreements authorizing expenditures of Federal funds by any entity, that the receiving entity make available for audit all records and other information relating to the expenditure of the funds;

(5) encourage, by appropriate means, economic viability that is consistent with the purposes of the Heritage Area; and

(6) maintain headquarters for the management entity at Morristown National Historical Park and in Mercer County.

(c) PROHIBITION ON THE ACQUISITION OF REAL PROPERTY.—

(1) FEDERAL FUNDS.—The management entity shall not use Federal funds made available under this Act to acquire real property or any interest in real property.

(2) OTHER FUNDS.—Notwithstanding paragraph (1), the management entity may acquire real property or an interest in real property using any other source of funding, including other Federal funding.

SEC. 7. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—On the request of the management entity, the Secretary may provide technical and financial assistance to the Heritage Area for the development and implementation of the management plan.

(2) PRIORITY FOR ASSISTANCE.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that assist in—

(A) conserving the significant cultural, historic, natural, and scenic resources of the Heritage Area; and

(B) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(3) OPERATIONAL ASSISTANCE.—Subject to the availability of appropriations, the Superintendent of Morristown National Historical Park may, on request, provide to public and private organizations in the Heritage Area, including the management entity, any operational assistance that is appropriate for the purpose of supporting the implementation of the management plan.

(4) PRESERVATION OF HISTORIC PROPERTIES.—To carry out the purposes of this Act, the Secretary may provide assistance to a State or local government or nonprofit organization to provide for the appropriate treatment of—

(A) historic objects; or

(B) structures that are listed or eligible for listing on the National Register of Historic Places.

(5) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the management entity and other public or private entities to carry out this subsection.

(b) OTHER FEDERAL AGENCIES.—Any Federal agency conducting or supporting an activity that directly affects the Heritage Area shall—

(1) consult with the Secretary and the management entity regarding the activity;

(2)(A) cooperate with the Secretary and the management entity in carrying out the of the Federal agency under this Act; and

(B) to the maximum extent practicable, coordinate the activity with the carrying out of those duties; and

(3) to the maximum extent practicable, conduct the activity to avoid adverse effects on the Heritage Area.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the cost of any activity assisted under this Act shall be not more than 50 percent.

SEC. 9. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

By Mr. BURNS:

S. 826. A bill to provide that the conveyance of the former radar bomb scoring site to the city of Conrad, Montana, is not subject to reversion; to the Committee on Armed Services.

Mr. BURNS. Mr. President, I take the floor today to ask that we finally help the town of Conrad, MT continue its successful program of providing affordable housing for our seniors. I renew my commitment to making sure this occurs.

In the defense authorization act of 1994, the Air Force conveyed an unused 42–acre parcel of land to the city of Conrad, which then built a retirement home for Montana seniors. The home has been a great success, and the city of Conrad has begun the process of expanding the facility.

When the city proposed using the land as collateral for the home, it ran into a problem. In the quitclaim deed where we conveyed the land to the city, we included a customary reversion clause that would transfer the property back to the Department of Defense in the event that the land stopped being used for the purpose of housing or public recreation.

While the intent of this clause is and will continue to be met, a small city like Conrad must use the title to the land to secure construction loans, rather than issuing a municipal bond or some other measure to raise funds used by larger cities. The reversion clause prevents banks from using the land to secure the loan, as the city does not have clear title to the land.

Therefore, I ask the Senate to approve this modification to public law 103–160, section 2816 regarding the 42 acre site of the Blue Sky Villa, which removes the reversion clause for this

land, giving the city of Conrad clear title. I thank the Senate for it's consideration of this important matter for our senior citizens in Montana.

By Mr. FEINGOLD (for himself, Mr. SCHUMER, and Mrs. CLINTON):

S. 827. A bill to prohibit products that contain dry ultra-filtered milk products, milk protein concentrate, or casein from being labeled as domestic natural cheese, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. FEINGOLD. Mr. President, I am pleased to re-introduce the Quality Cheese Act of 2005. This legislation will protect the consumer, save taxpayer dollars and provide support to America's dairy farmers, who have taken a beating in the marketplace in recent years.

When Wisconsin consumers have the choice, they will choose natural Wisconsin cheese. But some in the food industry have pushed the Food and Drug Administration (FDA) to change current law, which would leave consumers not knowing whether cheese is really all natural or not.

If the Federal Government creates a loophole for imitation cheese ingredients to be used in U.S. cheese vats, some cheese labels saying ''domestic'' and ''natural'' will no longer be truly accurate.

If USDA and FDA allow a change in Federal rules, imitation milk proteins known as milk protein concentrate, casein, or dry ultra filtered milk could be used to make cheese in place of the wholesome natural milk produced by cows in Wisconsin or other parts of the U.S.

I was deeply concerned by these efforts to change America's natural cheese standard. This effort to allow milk protein concentrate and casein into natural cheese products flies in the face of logic and could create a loophole that could allow unlimited amounts of substandard imported milk proteins to enter U.S. cheese vats.

While the industry proposal was withdrawn, my legislation would permanently prevent a similar back-door attempt to allow imitation milk as a cheese ingredient and ensure that consumers could be confident that they were buying natural cheese when they saw the natural label.

Over the past decade, cheese consumption has risen at a strong pace due in part to promotional and marketing efforts and investments by dairy farmers across the country. Year after year, per capita cheese consumption has risen at a steady rate.

These proposals to change our natural cheese standards, however, could decrease consumption of natural cheese by raising concerns about the origin of casein and milk protein concentrate. Use of such products could significantly tarnish the wholesome reputation of natural cheese in the eyes of the consumer and have unknown effects on quality and flavor.

This change could seriously compromise decades of work by America's dairy farmers to build up domestic cheese consumption levels. It is simply not fair to America's farmers or to consumers. After all, consumers have a right to know if the cheese that they buy is unnatural. And by allowing milk protein concentrate milk into supposedly natural cheese, we are denying consumers the entire picture.

Allowing MPCs or dry ultra-filtered milk into natural cheeses would also harm dairy producers throughout the United States. Some estimate that the annual effect of the change on the dairy farm sector of the economy could be more than $100 million.

The proposed change to our natural cheese standard would also harm the American taxpayer. If we allow MPCs to be used in cheese, we will effectively permit unrestricted importation of these ingredients into the United States. Because there are no tariffs and quotas on these ingredients, these heavily subsidized products would quickly displace natural domestic dairy ingredients.

These unnatural domestic dairy products would enter our domestic cheese market and could depress dairy prices paid to American dairy producers. Low dairy prices, in turn, could result in increased costs to the dairy price support program as the federal government is forced to buy domestic milk products when they are displaced in the market by cheap imports. So, at the same time that U.S. dairy farmers would receive lower prices, the U.S. taxpayer would pay more for the dairy price support program.

This change does not benefit the dairy farmer, consumer or taxpayer. Who then is it good for?

It would benefit only the subsidized foreign MPC producers out to make a fast buck by exploiting a system put in place to support our dairy farmers.

This legislation addresses the concerns of farmers, consumers and taxpayers by prohibiting dry ultra-filtered milk, casein, and MPCs from being included in America's natural cheese standard.

Congress must shut the door on any backdoor efforts to undermine America's dairy farmers. I urge my colleagues to pass my legislation and prevent a loophole that would allow changes that hurt the consumer, taxpayer, and dairy farmer.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 827

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 ''Quality Cheese Act of 2005''.

SEC. 2. NATURAL CHEESE STANDARD.

(a) FINDINGS.—Congress finds that—

(1)(A) any change in domestic natural cheese standards to allow dry ultra-filtered milk products, milk protein concentrate, or casein to be labeled as domestic natural cheese would result in increased costs to the dairy price support program; and

(B) that change would be unfair to taxpayers, who would be forced to pay more program costs;

(2) any change in domestic natural cheese standards to allow dry ultra-filtered milk products, milk protein concentrate, or casein to be labeled as domestic natural cheese would result in lower revenues for dairy farmers;

(3) any change in domestic natural cheese standards to allow dry ultra-filtered milk products, milk protein concentrate, or casein to be labeled as domestic natural cheese would cause dairy products containing dry ultra-filtered milk, milk protein concentrate, or casein to become vulnerable to contamination and would compromise the sanitation, hydrosanitary, and phytosanitary standards of the United States dairy industry; and

(4) changing the labeling standard for domestic natural cheese would be misleading to the consumer.

(b) PROHIBITION.—Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended—

(1) by striking ''Whenever'' and inserting ''(a) Whenever''; and

(2) by adding at the end the following:

''(b) The Commissioner may not use any Federal funds to amend section 133.3 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling), to include dry ultra-filtered milk, milk protein concentrate, or casein in the definition of the term 'milk' or 'nonfat milk', as specified in the standards of identity for cheese and cheese products published at part 133 of title 21, Code of Federal Regulations (or any corresponding similar regulation or ruling).''.

By Mr. GRASSLEY (for himself, Mr. SCHUMER, Mr. CORNYN, Mr. LEAHY, Mr. CRAIG, Mr. FEINGOLD, Mr. ALLEN, Mr. DURBIN, Mr. GRAHAM, Mr. DEWINE, and Mr. ALLARD):

S. 829. A bill to allow media coverage of court proceedings; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I rise today to introduce the ''Sunshine in the Courtroom Act.'' This bill will give Federal judges the discretion to allow for the photographing, electronic recording, broadcasting and televising of Federal court proceedings. The Sunshine in the Courtroom Act will help the public become better informed about the judicial process. Moreover, this bill will help produce a healthier judiciary. Increased public scrutiny will bring about greater accountability and help judges to do a better job. The sun needs to shine in on the Federal courts.

Allowing cameras in the Federal courtrooms is consistent with our Founding Fathers' intent that trials be held in front of as many people as choose to attend. I believe that the First Amendment requires that court proceedings be open to the public and, by extension, the news media. The Constitution and Supreme Court have said, ''what transpires in the courtroom is public property.'' Clearly, the American values of openness and education

are served by using electronic media in Federal courtrooms.

There are many benefits and no substantial detrimental effects to allowing greater public access to the inner workings of our Federal courts. Fifteen States conducted studies aimed specifically at the educational benefits derived from camera access courtrooms. They all determined that camera coverage contributed to greater public understanding of the judicial system.

Moreover, the widespread use in State court proceedings show that still and video cameras can be used without any problems, and that procedural discipline is preserved. According to the National Center for State Courts, all 50 states allow for some modern audiovisual coverage of court proceedings under a variety of rules and conditions. My own State of Iowa has operated successfully in this open manner for over 20 years. Further, at the Federal level, the Federal Judicial Center conducted a pilot program in 1994 which studied the effect of cameras in a select number of Federal courts. That study found ''small or no effects of camera presence on participants in the proceeding, courtroom decorum, or the administration of justice.''

I would like to note that even the Supreme Court has recognized that there is a serious public interest in the open airing of important court cases. At the urging of Senator SCHUMER and myself, Chief Justice Rehnquist allowed the delayed audio broadcasting of the oral arguments before the Supreme Court in the 2000 presidential election dispute. The Supreme Court's response to our request was an historic, major step in the right direction. Since then, the Supreme Court has allowed for audio broadcasting in other landmark cases. Other courts have followed suit, such as the live audio broadcast of oral arguments before the D.C. Circuit in the Microsoft antitrust case and the televising of appellate proceedings before the Ninth Circuit in the Napster copyright case. The public wants to see what is happening in these important judicial proceedings, and the benefits are significant in terms of public knowledge and discussion.

We've introduced the Sunshine in the Courtroom Act with a well-founded confidence based on the experience of the States as well as State and Federal studies. However, in order to be certain of the safety and integrity of our judicial system, we have included a 3-year sunset provision allowing a reasonable amount of time to determine how the process is working before making the provisions of the bill permanent.

It is also important to note that the bill simply gives judges the discretion to use cameras in the courtroom. It does not require judges to have cameras in their courtroom if they do not want them. The bill also protects the anonymity of non-party witnesses by giving them the right to have their voices and images obscured during testimony.

So, the bill does not require cameras, but allows judges to exercise their discretion to permit camera in appropriate cases. The bill protects witnesses and does not compromise safety. The bill preserves the integrity of the judicial system. The bill is based on the experience of the States and the Federal courts. And the bill's net result will be greater openness and accountability of the nation's Federal courts. The best way to maintain confidence in our judicial system, where the Federal judiciary holds tremendous power, is to let the sun shine in by opening up the Federal courtrooms to public view through broadcasting. And allowing cameras in the courtroom will bring the judiciary into the 21st century. I urge my colleagues to join me in supporting the Sunshine in the Courtroom Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 829

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 ''Sunshine in the Courtroom Act of 2005''.

SEC. 2. DEFINITIONS.

In this Act:

(1) PRESIDING JUDGE.—The term ''presiding judge'' means the judge presiding over the court proceeding concerned. In proceedings in which more than 1 judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term ''appellate court of the United States'' means any United States circuit court of appeals and the Supreme Court of the United States.

SEC. 3. AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.

(a) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(b) AUTHORITY OF DISTRICT COURTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in the discretion of that judge, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) OBSCURING OF WITNESSES.—

(A) IN GENERAL.—Upon the request of any witness in a trial proceeding other than a party, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding.

(B) NOTIFICATION TO WITNESSES.—The presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request that the image and voice of that witness be obscured during the witness' testimony.

(c) ADVISORY GUIDELINES.—The Judicial Conference of the United States may promulgate advisory guidelines to which a presiding judge, in the discretion of that judge, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described under subsections (a) and (b).

SEC. 4. SUNSET.

The authority under section 3(b) shall terminate 3 years after the date of the enactment of this Act.

By Mr. BINGAMAN:

S. 831. A bill to provide for the establishment of a Health Workforce Advisory Commission to review Federal health workforce policies and make recommendations on improving those policies; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I rise today to introduce legislation that will help address the devastating health workforce shortages we will be facing in this country. Health care expenditures represent 15.3 percent of U.S. gross domestic product. These expenditures are expected to rise to 18.7 percent by 2014. As health care needs grow, society faces increasing challenges related to the health care workforce. By 2020, 29 percent nursing positions are projected to be vacant. From 2000–2010, an additional 1.2 million aides will be needed to cover projected growth in long-term care positions and replacement of departing workers. An aging health care workforce means that by 2008, almost half of the workforce will be 45 years of age and older. Currently, U.S. providers rely on international medical graduate and foreign trained nurses to fill some critical roles, while continuing to face a shortage of providers in health professional shortage areas. Health workforce challenges need to analyzed, understood, and alleviated, to ensure better access and better quality of care.

The Health Workforce Advisory Commission Act of 2005 will help to create a national vision to serve as a roadmap for investing in the health workforce. Through analysis and recommendation, an 18 member commission of national workforce and health experts will provide insight regarding the solutions necessary to enhance our health workforce. Key areas for commission focus will include forecasting of supply and distribution of physicians, nurses and other health professionals, studying the national and global impact of workforce policies related to the utilization of internationally trained practitioners, and developing appropriate measures to ensure diversity of the U.S. health workforce. The commission will make recommendations to Congress on health workforce policy.

It is vital that the U.S. take new measures to ensure that workforce challenges are met and overcome for current and future generations. By undertaking and overcoming the challenges before us, we will enhance both the quality of healthcare and the quality of life, provide access nationwide, and build a health care system that is consistent with our current and future health and economic needs. The Health Workforce Advisory Commission can serve a new and integral role for our health care system and our society, now and in the future.

I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 831

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 ''Health Workforce Advisory Commission Act of 2005''.

SEC. 2. HEALTH WORKFORCE ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The Comptroller General shall establish a commission to be known as the Health Workforce Advisory Commission (referred to in this Act as the ''Commission'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 18 members to be appointed by the Comptroller General not later than 90 days after the date of enactment of this Act, and an ex-officio member who shall serve as the Director of the Commission.

(2) QUALIFICATIONS.—In appointing members to the Commission under paragraph (1), the Comptroller General shall ensure that—

(A) the Commission includes individuals with national recognition for their expertise in health care workforce issues, including workforce forecasting, undergraduate and graduate training, economics, health care and health care systems financing, public health policy, and other fields;

(B) the members are geographically representative of the United States and maintain a balance between urban and rural representatives;

(C) the members includes a representative from the commissioned corps of the Public Health Service;

(D) the members represent the spectrum of professions in the current and future healthcare workforce, including physicians, nurses, and other health professionals and personnel, and are skilled in the conduct and interpretation of health workforce measurement, monitoring and analysis, health services, economic, and other workforce related research and technology assessment;

(E) at least 25 percent of the members who are health care providers are from rural areas; and

(F) a majority of the members are individuals who are not currently primarily involved in the provision or management of health professions education and training programs.

(3) TERMS AND VACANCIES.—

(A) TERMS.—The term of service of the members of the Commission shall be for 3 years except that the Comptroller General shall designate staggered terms for members initially appointed under paragraph (1).

(B) VACANCIES.—Any member who is appointed to fill a vacancy on the Commission that occurs before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(4) CHAIRPERSON.—

(A) DESIGNATION.—The Comptroller General shall designate a member of the Commission, at the time of the appointment of such member—

(i) to serve as the Chairperson of the Commission; and

(ii) to serve as the Vice Chairperson of the Commission.

(B) TERM.—A member shall serve as the Chairperson or Vice Chairperson of the Commission under subparagraph (A) for the term of such member.

(C) VACANCY.—In the case of a vacancy in the Chairpersonship or Vice Chairpersonship, the Comptroller General shall designate another member to serve for the remainder of the vacant member's term.

(c) DUTIES.—The Commission shall—

(1) review the health workforce policies implemented—

(A) under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395, 1396 et seq.);

(B) under titles VII and VIII of the Public Health Service Act (42 U.S.C. 292, 296 et seq.);

(C) by the National Institutes of Health;

(D) by the Department of Health and Human Services;

(E) by the Department of Veterans Affairs; and

(F) by other departments and agencies as appropriate;

(2) analyze and make recommendations to improve the methods used to measure and monitor the health workforce and the relationship between the number and make up of such personnel and the access of individuals to appropriate health care;

(3) review the impact of health workforce policies and other factors on the ability of the health care system to provide optimal medical and health care services;

(4) analyze and make recommendations pertaining to Federal incentives (financial, regulatory, and otherwise) and Federal programs that are in place to promote the education of an appropriate number and mix of health professionals to provide access to appropriate health care in the United States;

(5) analyze and make recommendations about the appropriate supply and distribution of physicians, nurses, and other health professionals and personnel to achieve a health care system that is safe, effective, patient centered, timely, equitable, and efficient;

(6) analyze the role and global implications of internationally trained physicians, nurses, and other health professionals and personnel in the United States health workforce;

(7) analyze and make recommendations about achieving appropriate diversity in the United States health workforce;

(8) conduct public meetings to discuss health workforce policy issues and help formulate recommendations for Congress and the Secretary of Health and Human Services;

(9) in the course of meetings conducted under paragraph (8), consider the results of staff research, presentations by policy experts, and comments from interested parties;

(10) make recommendations to Congress concerning health workforce policy issues;

(11) not later than April 15, 2006, and each April 15 thereafter, submit a report to Congress containing the results of the reviews conducted under this subsection and the recommendations developed under this subsection;

(12) periodically, as determined appropriate by the Commission, submit reports to Congress concerning specific issues that the Commission determines are of high importance; and

(13) carry out any other activities determined appropriate by the Secretary of Health and Human Services.

(d) ONGOING DUTIES CONCERNING REPORTS AND REVIEWS.—

(1) COMMENTING ON REPORTS.—

(A) SUBMISSION TO COMMISSION.—The Secretary of Health and Human Services shall transmit to the Commission a copy of each report that is submitted by the Secretary to Congress if such report is required by law and relates to health workforce policy.

(B) REVIEW.—The Commission shall review a report transmitted under subparagraph (A) and, not later than 6 months after the date on which the report is transmitted, submit to the appropriate committees of Congress written comments concerning such report. Such comments may include such recommendations as the Commission determines appropriate.

(2) AGENDA AND ADDITIONAL REVIEWS.—

(A) IN GENERAL.—The Commission shall consult periodically with the chairman and ranking members of the appropriate committees of Congress concerning the agenda and progress of the Commission.

(B) ADDITIONAL REVIEWS.—The Commission may from time to time conduct additional reviews and submit additional reports to the appropriate committees of Congress on topics relating to Federal health workforce-related programs and as may be requested by the chairman and ranking members of such committees.

(3) AVAILABILITY OF REPORTS.—The Commission shall transmit to the Secretary of Health and Human Services a copy of each report submitted by the Commission under this section and shall make such reports available to the public.

(e) POWERS OF THE COMMISSION.—

(1) GENERAL POWERS.—Subject to such review as the Comptroller General determines to be necessary to ensure the efficient administration of the Commission, the Commission may—

(A) employ and fix the compensation of the Executive Director and such other personnel as may be necessary to carry out its duties;

(B) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments *and agencies;

(C) enter into contracts or make other arrangements as may be necessary for the conduct of the work of the Commission;

(D) make advance, progress, and other payments that relate to the work of the Commission;

(E) provide transportation and subsistence for personnel who are serving without compensation; and

(F) prescribe such rules and regulations at the Commission determined necessary with respect to the internal organization and operation of the Commission.

(2) INFORMATION.—To carry out its duties under this section, the Commission—

(A) shall have unrestricted access to all deliberations, records, and nonproprietary data maintained by the General Accounting Office;

(B) may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out its duties under this section, on a schedule that is agreed upon between the Chairperson and the head of the department or agency involved;

(C) shall utilize existing information (published and unpublished) collected and assessed either by the staff of the Commission or under other arrangements;

(D) may conduct, or award grants or contracts for the conduct of, original research and experimentation where information

available under subparagraphs (A) and (B) is inadequate;

(E) may adopt procedures to permit any interested party to submit information to be used by the Commission in making reports and recommendations under this section; and

(F) may carry out other activities determined appropriate by the Commission.

(f) ADMINISTRATIVE PROVISIONS.—

(1) COMPENSATION.—While serving on the business of the Commission a member of the Commission shall be entitled to compensation at the per diem equivalent of the rate provided for under level IV of the Executive Schedule under title 5, United States Code.

(2) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(3) EXECUTIVE DIRECTOR AND STAFF.—The Comptroller General shall appoint an individual to serve as the interim Executive Director of the Commission until the members of the Commission are able to select a permanent Executive Director under subsection (e)(1)(A).

(4) ETHICAL DISCLOSURE.—The Comptroller General shall establish a system for public disclosure by members of the Commission of financial and other potential conflicts of interest relating to such members.

(5) AUDITS.—The Commission shall be subject to periodic audit by the Comptroller General.

(g) FUNDING.—

(1) REQUESTS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General submits such requests. Amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $6,000,000 for fiscal year 2006, and such sums as may be necessary for each subsequent fiscal year, of which—

(A) 80 percent of such appropriated amount shall be made available from the Federal Hospital Insurance Trust Fund under section 1817 of the Social Security Act (42 U.S.C. 1395i); and

(B) 20 percent of such appropriation shall be made available for amounts appropriated to carry out title XIX of such Act (42 U.S.C. 1396 et seq.).

(h) DEFINITION.—In this Act, the term ''appropriate committees of Congress'' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

By Mr. BINGAMAN (for himself, Mr. SMITH, Mr. BAUCUS, Mr. GRASSLEY, Mr. AKAKA, Mr. SCHUMER, and Mr. PRYOR):

S. 832. A bill to amend the Internal Revenue Code of 1986 to provide taxpayer protection and assistance, and for other purposes; to the Committee on Finance.

MR. BINGAMAN. Mr. President, I rise today to introduce the ''Taxpayer Protection and Assistance Act of 2005'' with Senators SMITH, BAUCUS, GRASSLEY, AKAKA, SCHUMER and PRYOR. This legislation combines various provisions intended to ensure that our nation's taxpayers are better able to prepare and file their tax returns each year in a fashion that is fair, reasonable and affordable. As long as we continue to require taxpayers to determine their own tax liability each year, we have a responsibility to ensure that we do not leave taxpayers vulnerable to abuses from those masquerading as tax professionals. This is bad for everyone including the majority of tax return preparers who provide professional and much needed services to taxpayers in their communities. I encourage my colleagues to work with us to ensure that the improvements that would be brought about by this bill are in place before the next filing season begins.

As I previously stated, this legislation is composed of several provisions. The first section would create a $10 million matching grant program for lower income tax preparation clinics much like the program we have currently have in place for tax controversies. I have seen first hand the impact free tax preparation clinics can have on taxpayers and their communities, as we are fortunate to have one of the best state-wide programs in the nation in New Mexico. TaxHelp New Mexico, which was started only a couple of years ago, helped 17,000 New Mexicans prepare and file their returns last year, resulting in over $14 million in refunds—all without refund anticipation loans. This year they are on pace to pass their goal of helping 25,000 elderly and economically disadvantaged taxpayers with free tax preparation and electronic filing of their returns. This program, started by Fred Gordon and Robin Brule from TVI and Carol Radosevich and Jeff Sterba from PNM, has turned into one of the best delivery mechanisms for public assistance I have seen in the state. This program has been fortunate to receive additional funding from the Annie E. Casey Foundation and the McCune Foundation. In order to continue to grow, though, we need to do our part in Congress and give them matching funding so they can continue their outreach into new communities in need of assistance.

The second set of provisions contained in this legislation would ensure that when taxpayers hire someone to help them with their tax returns they can be sure that the person is competent and professional. The first part of the bill makes sure that an enrolled agent, a tax professional licensed to practice before the IRS, shall have the exclusive right to describe him or herself as an ''enrolled agent,'' ''EA,'' or ''E.A.'' In New Mexico, enrolled agents play an important role in helping taxpayers with problems with the IRS and with preparing their returns. They have earned the right to use their credentials, and we should prohibit those who have not taken the rigorous exams and do not have their experience to confuse the public into thinking they too have the same credentials. The second part of the bill requires the Treasury to determine what standards need to be met in order for a person to prepare tax returns commercially. Like all other tax professionals, this will require people who make a living preparing tax returns to pass a minimum competency exam and take brush up courses each year to keep abreast of tax law changes. The majority of tax return preparers already meet these standards, and it is clear that those who do not need to in order to prepare returns for a fee. The Treasury Department will also be required to operate a public awareness campaign so that taxpayers will know that they need to check to be sure that someone preparing their tax returns for a fee is qualified.

The third set of provisions would directly address the problems with refund anticipation loans (RALs), which is a problem throughout the country, but is particularly bad in New Mexico. First, this bill requires refund loan facilitators to register with the Treasury Department. Refund loan facilitators are those people who solicit, process, or otherwise facilitate the making of a refund anticipation loan in relation to a tax return being electronically filed. The legislation also requires these refund loan facilitators to properly disclose to taxpayers that they do not have to get a RAL in order to file their return electronically, as well as clearly disclose what all the costs involved with the loan. Finally, the refund loan facilitators must disclose to taxpayers when the loans would allow their refunds to be offset by the amount of the loan. Failure to follow these new rules will empower Treasury to impose penalties as appropriate. Like the credentials required for preparing returns, the Treasury Department would need to operate a public awareness campaign to educate the public on the real costs of RALs as compared to other forms of credit. This program will be funded, at least in part, by amounts collected from penalties imposed on refund loan facilitators.

The last section of the bill is an issue that my colleague from Hawaii, Senator AKAKA, has been actively working on for the last several years. This provision would authorize the Treasury Department to award grants to financial institutions or charitable groups that help low income taxpayers set up accounts at bank or credit union. Because many taxpayers do not have checking or savings accounts, their refund from IRS cannot be electronically wired to them. The alternative is to have the check mailed to the taxpayer or to have the refund immediately loaned to the taxpayer in the form of a RAL. Of course, getting people to set up a checking or savings account for purposes of receiving their tax refund will also have the benefit of getting many of these people to start saving for the first time.

Before I conclude, I would specifically like to thank Anita Horn Rizek from the Finance Committee for her tireless dedication to improving our nation's tax system and ensuring that all taxpayers are treated fairly regardless of their income class. Without her efforts this legislation would not have been possible.

I hope my colleagues will join with us to ensure that another tax year does

not go by without making these modest changes. In order for our voluntary tax system to continue to function, taxpayers must have access to tax professionals with the highest ethical standards and greatest substantive knowledge possible. This bill will go a long way toward maintaining the integrity of the tax administration system.

I ask unanimous consent that the text of the bill and an analysis of the bill be printed in the RECORD.

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

S. 832

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Taxpayer Protection and Assistance Act of 2005''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. LOW-INCOME TAXPAYER CLINICS.

(a) GRANTS FOR RETURN PREPARATION CLINICS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting after section 7526 the following new section:

''SEC. 7526A. RETURN PREPARATION CLINICS FOR LOW-INCOME TAXPAYERS.

''(a) IN GENERAL.—The Secretary may, subject to the availability of appropriated funds, make grants to provide matching funds for the development, expansion, or continuation of qualified return preparation clinics.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RETURN PREPARATION CLINIC.—

''(A) IN GENERAL.—The term 'qualified return preparation clinic' means a clinic which—

''(i) does not charge more than a nominal fee for its services (except for reimbursement of actual costs incurred), and

''(ii) operates programs which assist low-income taxpayers, including individuals for whom English is a second language, in preparing and filing their Federal income tax returns, including schedules reporting sole proprietorship or farm income.

''(B) ASSISTANCE TO LOW-INCOME TAXPAYERS.—A clinic is treated as assisting low-income taxpayers under subparagraph (A)(ii) if at least 90 percent of the taxpayers assisted by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

''(2) CLINIC.—The term 'clinic' includes—

''(A) a clinical program at an eligible educational institution (as defined in section 529(e)(5)) which satisfies the requirements of paragraph (1) through student assistance of taxpayers in return preparation and filing, and

''(B) an organization described in section 501(c) and exempt from tax under section 501(a) which satisfies the requirements of paragraph (1).

''(c) SPECIAL RULES AND LIMITATIONS.—

''(1) AGGREGATE LIMITATION.—Unless otherwise provided by specific appropriation, the Secretary shall not allocate more than $10,000,000 per year (exclusive of costs of administering the program) to grants under this section.

''(2) OTHER APPLICABLE RULES.—Rules similar to the rules under paragraphs (2) through (7) of section 7526(c) shall apply with respect to the awarding of grants to qualified return preparation clinics.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by inserting after the item relating to section 7526 the following new item:

''Sec. 7526A Return preparation clinics for low-income taxpayers.''.

(b) GRANTS FOR TAXPAYER REPRESENTATION AND ASSISTANCE CLINICS.—

(1) INCREASE IN AUTHORIZED GRANTS.—Section 7526(c)(1) (relating to aggregate limitation) is amended by striking ''$6,000,000'' and inserting ''$10,000,000''.

(2) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—

(A) IN GENERAL.—Section 7526(c) (relating to special rules and limitations) is amended by adding at the end the following new paragraph:

''(6) USE OF GRANTS FOR OVERHEAD EXPENSES PROHIBITED.—No grant made under this section may be used for the overhead expenses of any clinic or of any institution sponsoring such clinic.''.

(B) CONFORMING AMENDMENTS.—Section 7526(c)(5) is amended—

(i) by inserting ''qualified'' before ''low-income'', and

(ii) by striking the last sentence.

(3) PROMOTION OF CLINICS.—Section 7526(c), as amended by paragraph (2), is amended by adding at the end the following new paragraph:

''(7) PROMOTION OF CLINICS.—The Secretary is authorized to promote the benefits of and encourage the use of low-income taxpayer clinics through the use of mass communications, referrals, and other means.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to grants made after the date of the enactment of this Act.

SEC. 3. CLARIFICATION OF ENROLLED AGENT CREDENTIALS.

(a) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

''SEC. 7529. ENROLLED AGENTS.

''(a) IN GENERAL.—The Secretary may prescribe such regulations as may be necessary to regulate the conduct of enrolled agents in regards to their practice before the Internal Revenue Service.

''(b) USE OF CREDENTIALS.—Any enrolled agents properly licensed to practice as required under rules promulgated under subsection (a) shall be allowed to use the credentials or designation as 'enrolled agent', 'EA', or 'E.A.'.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end the following new item:

''Sec. 7529 Enrolled agents.''.

(c) PRIOR REGULATIONS.—The authorization to prescribe regulations under the amendments made by this section may not be construed to have any effect on part 10 of title 31, Code of Federal Regulations, or any other related Federal rule or regulation issued before the date of the enactment of this Act.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4. REGULATION OF INCOME TAX RETURN PREPARERS.

(a) AUTHORIZATION.—Section 330(a)(1) of title 31, United States Code, is amended by inserting ''(including compensated preparers of tax returns, documents, and other submissions)'' after ''representatives''.

(b) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall prescribe regulations under section 330 of title 31, United States Code—

(A) to regulate those compensated preparers not otherwise regulated under regulations promulgated under such section on the date of the enactment of this Act, and

(B) to carry out the provisions of, and amendments made by, this section.

(2) EXAMINATION.—In promulgating the regulations under paragraph (1), the Secretary shall develop (or approve) and administer an eligibility examination designed to test—

(A) the technical knowledge and competency of each preparer described in paragraph (1)(A)—

(i) to prepare Federal tax returns, including individual and business income tax returns, and

(ii) to properly claim the earned income tax credit under section 32 of the Internal Revenue Code of 1986 with respect to such individual returns, and

(B) the knowledge of each such preparer regarding such ethical standards for the preparation of such returns as determined appropriate by the Secretary.

(3) CONTINUING ELIGIBILITY.—

(A) IN GENERAL.—The regulations under paragraph (1) shall require a renewal of eligibility every 3 years and shall set forth the manner in which a preparer described in paragraph (1)(A) must renew such eligibility.

(B) CONTINUING EDUCATION REQUIREMENTS.—As part of the renewal of eligibility, such regulations shall require that each such preparer show evidence of completion of such continuing education requirements as specified by the Secretary.

(C) NONMONETARY SANCTIONS.—The regulations under paragraph (1) shall provide for the suspension or termination of such eligibility in the event of any failure to comply with the requirements for such eligibility.

(c) OFFICE OF PROFESSIONAL RESPONSIBILITY.—Section 330 of title 31, United States Code, is amended by adding at the end the following new subsection:

''(e) OFFICE OF PROFESSIONAL RESPONSIBILITY.—

''(1) IN GENERAL.—There shall be in the Internal Revenue Service an Office of Professional Responsibility the functions of which shall be as prescribed by the Secretary of the Treasury, including the carrying out of the purposes of this section.

''(2) DIRECTOR.—

''(A) IN GENERAL.—The Office of Professional Responsibility shall be under the supervision and direction of an official known as the 'Director, Office of Professional Responsibility'. The Director, Office of Professional Responsibility, shall report directly to the Commissioner of Internal Revenue and shall be entitled to compensation at the same rate as the highest rate of basic pay established for the Senior Executive Service under section 5382 of title 5, or, if the Secretary of the Treasury so determines, at a rate fixed under section 9503 of such title.

''(B) APPOINTMENT.—The Director, Office of Professional Responsibility, shall be appointed by the Secretary of the Treasury without regard to the provisions of title 5 relating to appointments in the competitive service or the Senior Executive Service.

''(3) HEARING.—Any hearing on an action initiated by the Director, Office of Professional Responsibility to impose a sanction under regulations promulgated under this section shall be conducted in accordance with sections 556 and 557 of title 5 by 1 or

more administrative law judges appointed by the Secretary of the Treasury under section 3105 of title 5.

''(4) INFORMATION ON SANCTIONS TO BE AVAILABLE TO THE PUBLIC.—

''(A) SANCTIONS INITIATED BY ACTION.—When an action is initiated by the Director, Office of Professional Responsibility, to impose a sanction under regulations promulgated under this section, the pleadings, and the record of the proceeding and hearing shall be open to the public (subject to restrictions imposed under subparagraph (C)).

''(B) SANCTION NOT INITIATED BY ACTION.—When a sanction under regulations promulgated under this section (other than a private reprimand) is imposed without initiation of an action, the Director, Office of Professional Responsibility, shall make available to the public information identifying the representative, employer, firm or other entity sanctioned, as well as information about the conduct which gave rise to the sanction (subject to restrictions imposed under subparagraph (C)).

''(C) RESTRICTIONS ON RELEASE OF INFORMATION.—Information about clients of the representative, employer, firm or other entity and medical information with respect to the representative shall not be released to the public or discussed in an open hearing, except to the extent necessary to understand the nature, scope, and impact of the conduct giving rise to the sanction or proposed sanction. Disagreements regarding the application of this subparagraph shall be resolved by the administrative law judge or, when a sanction is imposed without initiation of an action, by the Director, Office of Professional Responsibility.

''(5) FEES.—Any fees imposed under regulations promulgated under this section shall be available without fiscal year limitation to the Office of Professional Responsibility for the purpose of reimbursement of the costs of administering and enforcing the requirements of such regulations.''.

(d) PENALTIES.—

(1) INCREASE IN CERTAIN PENALTIES.—Subsections (b) and (c) of section 6695 (relating to other assessable penalties with respect to the preparation of income tax returns for other persons) are each amended by striking ''$50'' and inserting ''$500''.

(2) USE OF PENALTIES.—Unless specifically appropriated otherwise, there is authorized to be appropriated and is appropriated to the Office of Professional Responsibility for each fiscal year for the administration of the public awareness campaign described in subsection (f) an amount equal to the penalties collected during the preceding fiscal year under sections 6694 and 6695 of the Internal Revenue Code of 1986 and under the regulations promulgated under section 330 of title 31, United States Code (by reason of subsection (b)(1)).

(e) COORDINATION WITH SECTION 6060(A).—The Secretary of the Treasury shall coordinate the requirements under the regulations promulgated under section 330 of title 31, United States Code, with the return requirements of section 6060 of the Internal Revenue Code of 1986.

(f) PUBLIC AWARENESS CAMPAIGN.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising—

(1) to encourage taxpayers to use for Federal tax matters only professionals who establish their competency under the regulations promulgated under section 330 of title 31, United States Code, and

(2) to inform the public of the requirements that any compensated preparer of tax returns, documents, and submissions subject to the requirements under the regulations promulgated under such section must sign the return, document, or submission prepared for a fee and display notice of such preparer's compliance under such regulations.

(g) ADDITIONAL FUNDS AVAILABLE FOR COMPLIANCE ACTIVITIES.—The Secretary of the Treasury may use any specifically appropriated funds for earned income tax credit compliance to improve and expand enforcement of the regulations promulgated under section 330 of title 31, United States Code.

(h) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5. CONTRACT AUTHORITY FOR EXAMINATIONS OF PREPARERS.

The Secretary of the Treasury is authorized to contract for the development or administration, or both, of any examinations under the regulations promulgated under section 330 of title 31, United States Code.

SEC. 6. REGULATION OF REFUND ANTICIPATION LOAN FACILITATORS.

(a) REGULATION OF REFUND ANTICIPATION LOAN FACILITATORS.—

(1) IN GENERAL.—Chapter 77 (relating to miscellaneous provisions), as amended by this Act, is amended by inserting at the end the following new section:

''SEC. 7530. REFUND ANTICIPATION LOAN FACILITATORS.

''(a) REGISTRATION.—Each refund loan facilitator shall register with the Secretary on an annual basis. As a part of such registration, each refund loan facilitator shall provide the Secretary with the taxpayer identification number of such facilitator.

''(b) DISCLOSURE.—Each refund loan facilitator shall disclose to a taxpayer both orally and on a separate written form at the time such taxpayer applies for a refund anticipation loan the following information:

''(1) NATURE OF THE TRANSACTION.—The refund loan facilitator shall disclose—

''(A) that the taxpayer is applying for a loan that is based upon the taxpayer's anticipated income tax refund,

''(B) the expected time within which the loan will be paid to the taxpayer if such loan is approved,

''(C) the time frame in which tax refunds are typically paid based upon the different filing options available to the taxpayer,

''(D) that there is no guarantee that a refund will be paid in full or received within a specified time period and that the taxpayer is responsible for the repayment of the loan even if the refund is not paid in full or has been delayed,

''(E) if the refund loan facilitator has an agreement with another refund loan facilitator (or any lender working in conjunction with another refund loan facilitator) to offset outstanding liabilities for previous refund anticipation loans provided by such other refund loan facilitator, that any refund paid to the taxpayer may be so offset and the implication of any such offset,

''(F) that the taxpayer may file an electronic return without applying for a refund anticipation loan and the fee for filing such an electronic return, and

''(G) that the loan may have substantial fees and interest charges that may exceed those of other sources of credit and the taxpayer should carefully consider—

''(i) whether such a loan is appropriate for the taxpayer, and

''(ii) other sources of credit.

''(2) FEES AND INTEREST.—The refund loan facilitator shall disclose all refund anticipation loan fees with respect to the refund anticipation loan. Such disclosure shall include—

''(A) a copy of the fee schedule of the refund loan facilitator,

''(B) the typical fees and interest rates (using annual percentage rates as defined by section 107 of the Truth in Lending Act (15 U.S.C. 1606)) for several typical amounts of such loans,

''(C) typical fees and interest charges if a refund is not paid or delayed, and

''(D) the amount of a fee (if any) that will be charged if the loan is not approved.

''(3) OTHER INFORMATION.—The refund loan facilitator shall disclose any other information required to be disclosed by the Secretary.

''(c) FINES AND SANCTIONS.—

''(1) IN GENERAL.—The Secretary may impose a monetary penalty on any refund loan facilitator who—

''(A) fails to register under subsection (a), or

''(B) fails to disclose any information required under subsection (b).

''(2) MAXIMUM MONETARY PENALTY.—Any monetary penalty imposed under paragraph (1) shall not exceed—

''(A) in the case of a failure to register, the gross income derived from all refund anticipation loans made during the period the refund loan facilitator was not registered, and

''(B) in the case of a failure to disclose information, the gross income derived from all refund anticipation loans with respect to which such failure applied.

''(3) REASONABLE CAUSE EXCEPTIONS.—No penalty may be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

''(d) DEFINITIONS.—For purposes of this section—

''(1) REFUND LOAN FACILITATOR.—

''(A) IN GENERAL.—The term 'refund loan facilitator' means any electronic return originator who—

''(i) solicits for, processes, receives, or accepts delivery of an application for a refund anticipation loan, or

''(ii) facilitates the making of a refund anticipation loan in any other manner.

''(B) ELECTRONIC RETURN ORIGINATOR.—For purposes of subparagraph (A), the term 'electronic return originator' means a person who originates the electronic submission of income tax returns for another person.

''(2) REFUND ANTICIPATION LOAN.—The term 'refund anticipation loan' means any loan of money or any other thing of value to a taxpayer in connection with the taxpayer's anticipated receipt of a Federal tax refund. Such term includes a loan secured by the tax refund or an arrangement to repay a loan from the tax refund.

''(3) REFUND ANTICIPATION LOAN FEES.—The term 'refund anticipation loan fees' means the fees, charges, interest, and other consideration charged or imposed by the lender or facilitator for the making of a refund anticipation loan.

''(e) REGULATIONS.—The Secretary may prescribe such regulation as necessary to implement the requirements of this section.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 77, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 7530 Refund anticipation loan facilitators.''.

(b) DISCLOSURE OF PENALTY.—Subsection (k) of section 6103 is amended by adding at the end the following new paragraph:

''(10) DISCLOSURE OF PENALTIES ON REFUND ANTICIPATION LOAN FACILITATORS.—The Secretary may disclose the name of any person with respect to whom a penalty has been imposed under section 7530 and the amount of any such penalty.''.

(c) USE OF PENALTIES.—Unless specifically appropriated otherwise, there is authorized to be appropriated and is appropriated to the Internal Revenue Service for each fiscal year

for the administration of the public awareness campaign described in subsection (d) an amount equal to the penalties collected during the preceding fiscal year under section 7530 of the Internal Revenue Code of 1986.

(d) PUBLIC AWARENESS CAMPAIGN.—The Secretary of the Treasury shall conduct a public information and consumer education campaign, utilizing paid advertising, to educate the public on making sound financial decisions with respect to refund anticipation loans (as defined under section 7530 of the Internal Revenue Code of 1986), including the need to compare—

(1) the rates and fees of such loans with the rates and fees of conventional loans; and

(2) the amount of money received under the loan after taking into consideration such costs and fees with the total amount of the refund.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 1 year after the date of the enactment of this Act.

SEC. 7. TAXPAYER ACCESS TO FINANCIAL INSTITUTIONS.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to award demonstration project grants (including multi-year grants) to eligible entities which partner with volunteer and low-income preparation organizations to provide tax preparation services and assistance in connection with establishing an account in a federally insured depository institution for individuals that currently do not have such an account.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—An entity is eligible to receive a grant under this section if such an entity is—

(A) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code,

(B) a federally insured depository institution,

(C) an agency of a State or local government,

(D) a community development financial institution,

(E) an Indian tribal organization,

(F) an Alaska Native Corporation,

(G) a Native Hawaiian organization,

(H) a labor organization, or

(I) a partnership comprised of 1 or more of the entities described in the preceding subparagraphs.

(2) DEFINITIONS.—For purposes of this section—

(A) FEDERALLY INSURED DEPOSITORY INSTITUTION.—The term ''federally insured depository institution'' means any insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)) and any insured credit union (as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752)).

(B) COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The term ''community development financial institution'' means any organization that has been certified as such pursuant to section 1805.201 of title 12, Code of Federal Regulations.

(C) ALASKA NATIVE CORPORATION.—The term ''Alaska Native Corporation'' has the same meaning as the term ''Native Corporation'' under section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m)).

(D) NATIVE HAWAIIAN ORGANIZATION.—The term ''Native Hawaiian organization'' means any organization that—

(i) serves and represents the interests of Native Hawaiians, and

(ii) has as a primary and stated purpose the provision of services to Native Hawaiians.

(E) LABOR ORGANIZATION.—The term ''labor organization'' means an organization—

(i) in which employees participate,

(ii) which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work, and

(iii) which is described in section 501(c)(5).

(c) APPLICATION.—An eligible entity desiring a grant under this section shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—A recipient of a grant under this section may not use more than 6 percent of the total amount of such grant in any fiscal year for the administrative costs of carrying out the programs funded by such grant in such fiscal year.

(e) EVALUATION AND REPORT.—For each fiscal year in which a grant is awarded under this section, the Secretary shall submit a report to Congress containing a description of the activities funded, amounts distributed, and measurable results, as appropriate and available.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, for the grant program described in this section, $10,000,000, or such additional amounts as deemed necessary, to remain available until expended.

(g) REGULATIONS.—The Secretary is authorized to promulgate regulations to implement and administer the grant program under this section.

(h) STUDY ON DELIVERY OF TAX REFUNDS.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the National Taxpayer Advocate, shall conduct a study on the payment of tax refunds through debit cards or other electronic means to assist individuals that do not have access to financial accounts or institutions.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to Congress containing the result of the study conducted under subsection (a).

SEC. 8. EXPANDED USE OF TAX COURT PRACTICE FEES FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) (relating to use of fees) is amended by inserting before the period at the end ''and to provide services to pro se taxpayers''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

ANALYSIS OF TAXPAYER PROTECTION AND ASSISTANCE ACT

OPR discipline is imposed after a hearing before an administrative law judge or as a result of an agreement between the OPR and the representative. Little is known about the basis for these actions, because the current practice is to publish only the identity of the representative, the disciplinary action taken; and the effective date. The bill would open the process to the public, providing greater transparency and accountability for both the representatives and the OPR.

Following the practice of many State attorney discipline processes, the bill provides that proceedings before an administrative law judge are open to the public. These proceedings are initiated by the Director of the Office of Professional Responsibility after the representative has been notified of the proposed charges, and has had an opportunity to respond to the Director. In many cases, the representative agrees with the Director that a violation of the rules of conduct has occurred, and agrees to accept a disciplinary action without a hearing before an administrative Judge. When discipline is imposed based on such an agreement, the bill provides that the Director will provide summary information about the conduct which gave rise to the sanction.

There is a longstanding provision of 26 USC 6103, permitting taxpayer information to be disclosed in proceedings brought to impose discipline under 31 USC 330. The bill provides a limitation on the disclosure of information about the client, allowing the administrative law judge to decide whether the client information is necessary to understand the nature, scope or impact of the misconduct. In cases where discipline is imposed without bringing the matter before an administrative law judge, the Director makes this determination. The bill also provides a general protection for medical information, the release of which would be an unwarranted invasion of personal privacy. For example, when a practitioner offers evidence of physical or mental health problems to explain his or her conduct, the release of that medical information in a proceeding may be inappropriate.

Mr. AKAKA Mr. President, I am proud to cosponsor the Taxpayer Protection and Assistance Act of 2005. I thank Senator BINGAMAN for introducing this bill and working closely with me over the years to protect taxpayers and expand access to financial services. I also appreciate all of the efforts of Senators BAUCUS, SMITH, GRASSLEY, and PRYOR on this important piece of consumer protection legislation.

The earned income tax credit (EITC) helps working families meet their food, clothing, housing, transportation, and education needs. Unfortunately, EITC refunds intended for working families are unnecessarily diminished by excessive tax preparation fees and the use of refund anticipation loans (RALs). According to the Brookings Institution, an estimated $1.9 billion intended to assist low-income families via the EITC was received by commercial tax preparers and affiliated national banks to pay for tax assistance, electronic filing of returns, and high-cost refund anticipation loans in 2002. Interest rates on RALs can range from 97 percent to more than 2,000 percent. The interest rates and fees charged on this type of product are not justified given the short duration and low repayment risk of this type of loan.

This legislation is a good start towards improving the quality of tax preparation services, providing relevant and useful disclosures about the use of RALs, and expanding access to low- and moderate-income families to mainstream financial services. The Act will provide the Department of the Treasury with the authority to regulate individuals preparing federal income tax returns and other documents for submission to the Internal Revenue Service. Fifty-seven percent of EITC overclaims were made on returns put together by paid preparers. This Act requires examinations, education, and oversight of paid preparers and urges citizens to utilize the services of an accredited or licensed tax preparer. This should improve the quality of tax preparation services available to our citizens.

In addition, the Act will require RAL facilitators to register with the Department of the Treasury, and comply with minimum disclosure requirements intended to improve the understanding of consumers about the costs associated with RALs. The Act also requires that the Department of the Treasury conduct a public awareness campaign intended to improve the knowledge of consumers about the costs associated with RALs. We need consumers to know more about the high fees associated with RALs and what alternatives are available, such as opening a bank or credit union account and having their refund directly deposited into it.

I am pleased that authorization language for a grant program to link tax preparation services with the opening of a bank or credit union account is included in this legislation. It is estimated that four million EITC recipients are classified as unbanked, and lack a formal relationship with a financial institution. Approximately 45 percent of EITC recipients pay for check cashing services. Check cashing services reduce EITC benefits by $130 million. Having a bank account allows individuals to take advantage of electronic filing, thus eliminating the excessive fees that check cashing services and refund anticipation loan providers assess. An account at a bank or credit union provides consumers alternatives to rapid refund loans, check cashing services, and lower cost remittances. In addition, bank and credit union accounts provide access to products and services found at mainstream financial institutions, such as savings accounts and reasonably priced loans.

This grant program builds upon the First Accounts initiative which has funded pilot projects that have coupled tax preparation services with the establishment of bank accounts. An example of such a project is the partnership that has been established by The Center for Economic Progress in Chicago. We need more of these types of programs intended to provide much needed tax preparation assistance, and encourage the use of mainstream financial services.

I urge all of my colleagues to support this legislation. This is an important first step towards improving the quality of tax preparation services. I look forward to continuing to work with my colleagues on additional consumer protections and initiatives to bring more people into mainstream financial services, such as what I included in S. 324, the Taxpayer Abuse Prevention Act.

By Mr. BINGAMAN:

S. 833. A bill to amend the Workforce Investment Act of 1998 to authroize the Secretary of Labor to provide for 5-year pilot projects to establish a system of industry-validated national certifications of skills in high-technology industries and a cross-disciplinary national certification of skills in homeland security technology; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BINGAMAN:

S. 834. A bill to amend the Workforce Investment Act of 1998 to provide for integrated workforce training programs for adults with limited English proficiency, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 833

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 ''Workforce Investment for Next-Generation Technologies Act'' or the ''WING Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Science- and technology-based industries have been and will continue to be engines of United States economic growth and national security.

(2) The United States faces great challenges in the global economy from nations with highly trained technical workforces.

(3) Occupations requiring technical and scientific training are projected to grow rapidly over the next decade, at 3 times the rate of all occupations (according to Science & Engineering Indicators, 2002).

(4) The need for trained technology workers in national security fields has increased as a result of the events of September 11, 2001.

(5) National certification systems are well established and accepted in fields such as health and information technology and have succeeded in attracting more workers into those fields.

(6) Business and workers could both be well served by expanding the certification concept to other high technology industries.

(7) National certification systems allow workers to develop skills transportable to other States in response to layoffs and other economic changes.

(8) National certification systems facilitate interstate comparisons of education and training programs and help identify best practices and reduce cost and development redundancies.

(9) National certification systems promote quality and encourage educational institutions to modernize programs to ensure graduates pass industry-required exams.

(10) National certification based on industry-validated skill standards introduces stricter accountability for technical and vocational education programs.

(11) Certification signals value to employers and increases applicants' employability.

(12) Certification offers a planned skill development route into employment or professional advancement for working adults and displaced workers.

(13) The National Science Foundation's Advanced Technological Education Program, authorized by Congress in 1992, has created national centers of excellence at community colleges that have established unique linkages with industry to prepare individuals for the technical workforce under the program.

(14) The Advanced Technological Education Program should be expanded to all institutions of higher education, as the Nation should invest more resources in training and education programs that are responsive to marketplace needs.

(15) The one-stop delivery systems authorized under the Workforce Investment Act of 1998 have proved to be effective providers of information and resources for job seekers.

(16) The one-stop delivery systems offer special opportunities for directing displaced workers to certification programs that build skills for technical fields where rewarding jobs are plentiful.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To increase the numbers of workers educated for employment in high technology industries.

(2) To align the technical and vocational programs of educational institutions with the workforce needs of high-growth, next generation industries.

(3) To offer individuals expanded opportunities for rapid training and retraining in portable skills needed to keep and change jobs in a volatile economy.

(4) To provide United States businesses with adequate numbers of skilled technical workers.

(5) To encourage a student's or worker's progress toward an advanced degree while providing training, education, and useful credentials for workforce entry or reentry.

SEC. 4. SKILL CERTIFICATION PILOT PROJECTS.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

''(e) SKILL CERTIFICATION PILOT PROJECTS.—

''(1) PILOT PROJECTS.—In accordance with subsection (b), the Secretary of Labor shall establish and carry out not more than 20 pilot projects to establish a system of industry-validated national certifications of skills, including—

''(A) not more than 16 national certifications of skills in high-technology industries, including biotechnology, telecommunications, highly automated manufacturing (including semiconductors), advanced materials technology, nanotechnology, and energy technology (including technology relating to next-generation lighting); and

''(B) not more than 4 cross-disciplinary national certifications of skills in homeland security technology.

''(2) GRANTS TO ELIGIBLE ENTITIES.—In carrying out the pilot projects, the Secretary of Labor shall make grants to eligible entities, for periods of not less than 36 months and not more than 48 months, to carry out the authorized activities described in paragraph (7) with respect to the certifications described in paragraph (1).

''(3) ELIGIBLE ENTITIES.—

''(A) DEFINITION OF ELIGIBLE ENTITY.—In this subsection, the term 'eligible entity' means an entity that shall include as a principal participant one or more of the following:

''(i) An institution of higher education (as defined in section 101 or 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002)).

''(ii) An advanced technology education center.

''(iii) A local workforce investment board.

''(iv) A representative of a business in a target industry for the certification involved.

''(v) A representative of an industry association, labor organization, or community development organization.

''(B) HISTORY OF DEMONSTRATED CAPABILITY REQUIRED.—To be eligible to receive a grant under this subsection, an eligible entity shall have a history of demonstrated capability for effective collaboration with industry on workforce development activities that is consistent with the goals of this Act.

''(4) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary of Labor at such time, in such

manner, and containing such information as the Secretary may require.

''(5) CRITERIA.—The Secretary of Labor shall establish criteria, consistent with paragraph (6), for awarding grants under this subsection.

''(6) PRIORITY.—In selecting eligible entities to receive grants under this subsection, the Secretary of Labor shall give priority to eligible entities that demonstrate the availability of and ability to provide matching funds from industry or nonprofit sources. Such matching funds may be provided in cash or in kind.

''(7) AUTHORIZED ACTIVITIES.—

''(A) IN GENERAL.—An eligible entity that receives a grant under this subsection shall use the funds made available through the grant—

''(i) to establish certification requirements for a certification described in paragraph (1) for an industry;

''(ii) to develop and initiate a certification program that includes preparatory courses, course materials, procedures, and examinations, for the certification; and

''(iii) to collect and analyze data related to the program at the program's completion, and to identify best practices (consistent with paragraph (8)) that may be used by local and State workforce investment boards in the future.

''(B) BASIS FOR REQUIREMENTS.—The certification requirements shall be based on applicable skill standards for the industry involved that have been developed by or linked to national centers of excellence under the National Science Foundation's Advanced Technological Education Program. The requirements shall require an individual to demonstrate an identifiable set of competencies relevant to the industry in order to receive certification. The requirements shall be designed to provide evidence of a transferable skill set that allows flexibility and mobility of workers within a high technology industry.

''(C) RELATIONSHIP TO TRAINING AND EDUCATION PROGRAMS.—The eligible entity shall ensure that—

''(i) a training and education program related to competencies for the industry involved, that is flexible in mode and timeframe for delivery and that meets the needs of those seeking the certification, is offered; and

''(ii) the certification program is offered at the completion of the training and education program.

''(D) RELATIONSHIP TO THE ASSOCIATE DEGREE.—The eligible entity shall ensure that the certification program is consistent with the requirements for a 2-year associate degree.

''(E) AVAILABILITY.—The eligible entity shall ensure that the certification program is open to students pursuing associate degrees, employed workers, and displaced workers.

''(8) CONSULTATION.—The Secretary of Labor shall consult with the Director of the National Science Foundation and the Secretary of Education to ensure that the pilot projects build on the expertise and information about best practices gained through the implementation of the National Science Foundation's Advanced Technological Education Program.

''(9) CORE COMPONENTS; GUIDELINES; REPORTS.—After collecting and analyzing the data obtained from the pilot programs, the Secretary of Labor shall—

''(A) establish the core components of a model high-technology certification program;

''(B) establish guidelines to assure development of a uniform set of standards and policies for such programs;

''(C) submit and prepare a report on the pilot projects to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives; and

''(D) make available to the public both the data and the report.

''(10) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there is authorized to be appropriated $60,000,000 for fiscal year 2006 to carry out this subsection.''.

S. 834

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 ''Limited English Proficiency and Integrated Workforce Training Act''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Workforce Investment Act of 1998 system is designed—

(A) to ensure universal access for individuals in need of employment and training systems; and

(B) to equip workers with those skills that contribute to lifelong education.

(2) The Workforce Investment Act of 1998 system is designed to recognize and reinforce the link between economic development and workforce development to meet the joint demands of employers and workers.

(3) The Workforce Investment Act of 1998 system should address the ongoing shortage of essential skills in the United States workforce in sectors with economic growth to ensure the United States remains competitive in the global economy.

(4) Immigrants accounted for over 50 percent of the growth in the civilian workforce between 1990 and 2001, and assuming today's levels of immigration remain constant, immigrants will account for half of the growth in the working age population between 2006 and 2015.

(5) The growth of the United States workforce and the competitiveness of the United States economy is directly linked to immigrants, some of whom are limited English proficient.

(6) The Workforce Investment Act of 1998 system may be significantly strengthened by funding the development of an employer centered integrated workforce training program for adults with limited English proficiency, taking into account the needs of the local and regional economy and the linguistic, social, and cultural characteristics of the individual.

SEC. 3. INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.

Section 171 of the Workforce Investment Act of 1998 (29 U.S.C. 2916) is amended by adding at the end the following:

''(e) INTEGRATED WORKFORCE TRAINING PROGRAMS FOR ADULTS WITH LIMITED ENGLISH PROFICIENCY.—

''(1) DEFINITIONS.—In this subsection:

''(A) INTEGRATED WORKFORCE TRAINING.—The term 'integrated workforce training' means training that integrates occupational skills training with language acquisition.

''(B) SECRETARY.—The term 'Secretary' means the Secretary of Labor in consultation with the Secretary of Education.

''(2) DEMONSTRATION PROJECT.—In accordance with subsection (b), the Secretary shall establish and implement a national demonstration project designed to both analyze and provide data on workforce training programs that integrate English language acquisition and occupational training.

''(3) GRANTS.—

''(A) IN GENERAL.—In carrying out the demonstration project, the Secretary shall make not less than 10 grants, on a competitive basis, to eligible entities to provide the integrated workforce training programs. In awarding grants under this subsection the Secretary shall take into consideration awarding grants to eligible entities from diverse geographic areas, including rural areas.

''(B) PERIODS.—The Secretary shall make the grants for periods of not less than 24 months and not more than 48 months.

''(4) ELIGIBLE ENTITIES.—

''(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall work in conjunction with a local board and shall include as a principal participant one or more of the following:

''(i) An employer or employer association.

''(ii) A nonprofit provider of English language instruction.

''(iii) A provider of occupational or skills training.

''(iv) A community-based organization.

''(v) An educational institution, including a 2- or 4-year college, or a technical or vocational school.

''(vi) A labor organization.

''(vii) A local board.

''(B) EXPERTISE.—To be eligible to receive a grant under this subsection, an eligible entity shall have proven expertise in—

''(i) serving individuals with limited English proficiency, including individuals with lower levels of oral and written English; and

''(ii) providing workforce programs with training and English language instruction.

''(5) APPLICATIONS.—

''(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) CONTENTS.—Each application submitted under subparagraph (A) shall—

''(i) contain information, including capability statements, that demonstrates that the eligible entity has the expertise described in paragraph (4)(B); and

''(ii) include an assurance that the program to be assisted shall—

''(I) establish a generalized adult bilingual workforce training and education model that integrates English language acquisition and occupational training, and incorporates the unique linguistic and cultural factors of the participants;

''(II) establish a framework by which the employer, employee, and other relevant members of the eligible entity can create a career development and training plan that assists both the employer and the employee to meet their long-term needs;

''(III) ensure that the framework established under subclause (II) takes into consideration the knowledge, skills, and abilities of the employee with respect to both the current and economic conditions of the employer and future labor market conditions relevant to the local area; and

''(IV) establish identifiable measures so that the progress of the employee and employer and the relative efficacy of the program can be evaluated and best practices identified.

''(6) –CRITERIA.—The Secretary shall establish criteria for awarding grants under this subsection.

''(7) INTEGRATED WORKFORCE TRAINING PROGRAMS.—

''(A) PROGRAM COMPONENTS.—

''(i) REQUIRED COMPONENTS.—Each program that receives funding under this subsection shall—

''(I) test an individual's English language proficiency levels to assess oral and literacy gains from the beginning and throughout program enrollment;

''(II) combine training specific to a particular occupation or occupational cluster, with—

''(aa) English language instruction, such as instruction through an English as a Second Language program, or an English for Speakers of Other Languages program;

''(bb) basic skills instruction; and

''(cc) supportive services;

''(III) effectively integrate public and private sector entities, including the local workforce investment system and its functions, to achieve the goals of the program; and

''(IV) require matching or in-kind resources from private and nonprofit entities.

''(ii) PERMISSIBLE COMPONENTS.—The program may offer other services, as necessary to promote successful participation and completion, including work-based learning, substance abuse treatment, and mental health services.

''(B) GOAL.—Each program that receives funding under this subsection shall be designed to prepare limited English proficient adults for, and place such adults in, employment in growing industries with identifiable career ladder paths.

''(C) PROGRAM TYPES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs that meet 1 or more of the following criteria:

''(i) A program that—

''(I) serves unemployed, limited English proficient individuals with significant work experience or substantial education but persistently low wages; and

''(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, defined for purposes of this subparagraph as employment that provides at least 75 percent of the median wage in the local area.

''(ii) A program that—

''(I) serves limited English proficient individuals with lower levels of oral and written fluency, who are working but at persistently low wages; and

''(II) aims to prepare such individuals for, and place such individuals in, higher paying employment, through services provided at the work site, or at a location central to several work sites, during work hours.

''(iii) A program that—

''(I) serves unemployed, limited English proficient individuals with lower levels of oral and written fluency, who have little or no work experience; and

''(II) aims to prepare such individuals for, and place such individuals in, employment through services that include subsidized employment, in addition to the components required in subparagraph (A)(i).

''(iv) A program that includes funds from private and nonprofit entities.

''(D) PROGRAM APPROACHES.—In selecting programs to receive funding under this subsection, the Secretary shall select programs with different approaches to integrated workforce training, in different contexts, in order to obtain comparative data on multiple approaches to integrated workforce training and English language instruction, to ensure programs are tailored to characteristics of individuals with varying skill levels and to assess how different curricula work for limited English proficient populations. Such approaches may include—

''(i) bilingual programs in which the workplace language component and the training are conducted in a combination of an individual's native language and English;

''(ii) integrated workforce training programs that combine basic skills, language instruction, and job specific skills training; or

''(iii) sequential programs that provide a progression of skills, language, and training to ensure success upon an individual's completion of the program.

''(8) EVALUATION BY ELIGIBLE ENTITY.—Each eligible entity that receives a grant under this subsection for a program shall carry out a continuous program evaluation and an evaluation specific to the last phase of the program operations.

''(9) EVALUATION BY SECRETARY.—

''(A) IN GENERAL.—The Secretary shall conduct an evaluation of program impacts of the programs funded under the demonstration project, with a random assignment, experimental design impact study done at each worksite at which such a program is carried out.

''(B) DATA COLLECTION AND ANALYSIS.—The Secretary shall collect and analyze the data from the demonstration project to determine program effectiveness, including gains in language proficiency, acquisition of skills, and job advancement for program participants.

''(C) REPORT.—The Secretary shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, and make available to the public, a report on the demonstration project, including the results of the evaluation.

''(10) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to recipients of grants under this subsection throughout the grant periods.

''(11) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized to be appropriated under section 174(b), there are authorized to be appropriated for fiscal year 2006—

''(A) $10,000,000 to make grants under paragraph (3); and

''(B) $1,000,000 to carry out paragraph (9).''.

By Mr. CRAIG (for himself and Mr. BURNS):

S. 835. A bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses; to the Committee on Finance.

Mr. CRAIG. Mr. President, today I am introducing the Senior Elder Care Relief and Empowerment Act—the SECURE Act.

The SECURE Act would provide eligible taxpayers with a nonrefundable tax credit equal to 50 percent of qualified expenses incurred on behalf of senior citizens above a $1,000 spending floor.

The Senate Special Committee on Aging, which I chaired in the 108th Congress and of which I remain a member, held several hearings over the last couple years on different facets of the growing long-term care crisis in this country. A major concern of mine is that the Federal long-term care policy mix may not have the right incentives—especially when it comes to the tough choices faced by families who want to care for their frail and aging relatives.

More and more families are facing the stress and financial difficulties that come with caring for their aging parents.

It is critical to note that families, not government, provide 80 percent of long-term care for older persons in the United States. This is an enormous strength of our long-term care system. The U.S. Administration on Aging reports that about 22 million people serve as informal caregivers for seniors with at least one limitation on their activities of daily living.

These caregivers often face extreme stress and financial burden—especially those we call the sandwich generation. The sandwich generation refers to those sandwiched between caring for their aging parents and caring for their own children.

It is difficult for families to balance caring for children and saving or paying for college, while at the same time struggling with financing care for frail and aging parents.

Many caregivers forgo job promotions, reduce their hours on the job, cut back to part-time, or take extended leaves of absence to stay at home and care for their aging family members. Direct expenses include the cost of prescription drugs, durable medical equipment, home modifications, and physical therapy.

Caregivers also endure emotional and personal health strains.

The average age of a caregiver is 57, with one-third over age 65 themselves. Caregivers suffer from higher rates of depression or anxiety. These conditions often lead to higher risk of heart disease, cancer, diabetes, or other chronic conditions.

For many families, the nursing home is the only solution for providing long-term care, and that can be a good choice. For other families, keeping aging and vulnerable relatives in their own home or in the caregiver's home makes sense.

Family caregiving for aging and vulnerable relatives requires a flexible national response to ensure seniors and their families have the most appropriate high quality choices.

That is why I am introducing the SECURE Act. This legislation would help reduce the financial strain and related emotional and medical stress faced by family caregivers, as they care for their frail and aging parents, by providing much-needed tax relief for qualified expenses.

The SECURE Act would increase the eldercare choices available to families and has the potential to reduce the number of seniors forced to spend down their nest-egg in order to qualify for Medicaid services.

Qualified expenses include costs that are not reimbursable—those not covered by Medicare or other insurance—for physical assistance with essential daily activities to prevent injury; long-term care expenses, including normal household services; architectural expenses necessary to modify the senior's residence; respite care; adult daycare; assisted living services that are non-housing related expenses; independent living; home care; and home health care.

Seniors with long-term care needs also would be able to use the tax credit on their own behalf.

The SECURE Act should not preclude seniors or those near retirement from purchasing long-term care insurance. The Act would provide tax relief for high-risk seniors who cannot qualify for long-term care insurance policies.

I invite my colleagues to cosponsor this compassionate legislation.

I ask unanimous consent that the text of the bill and a brief description be printed in the RECORD.

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

S. 835

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 ''Senior Elder Care Relief and Empowerment (SECURE) Act''.

SEC. 2. CREDIT FOR ELDER CARE.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25B the following new section:

''SEC. 25C. ELDER CARE EXPENSES.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter 50 percent of so much of the qualified elder care expenses paid or incurred by the taxpayer with respect to each qualified senior citizen as exceeds $1,000.

''(b) QUALIFIED SENIOR CITIZEN.—For purposes of this section, the term 'qualified senior citizen' means an individual—

''(1) who has attained normal retirement age (as determined under section 216 of the Social Security Act) before the close of the taxable year,

''(2) who is a chronically ill individual (within the meaning of section 7702B(c)(2)(B)), and

''(3) who is—

''(A) the taxpayer,

''(B) a family member (within the meaning of section 529(e)(2)) of the taxpayer, or

''(C) a dependent (within the meaning of section 152) of the taxpayer.

''(c) QUALIFIED ELDER CARE EXPENSES.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified elder care expenses' means expenses paid or incurred by the taxpayer with respect to the qualified senior citizen for—

''(A) qualified long-term care services (as defined in section 7702B(c)),

''(B) respite care, or

''(C) adult day care.

''(2) EXCEPTIONS.—The term 'qualified elder care expenses' does not include—

''(A) any expense to the extent such expense is compensated for by insurance or otherwise, and

''(B) any expense paid to a nursing facility (as defined in section 1919 of the Social Security Act).

''(d) OTHER DEFINITIONS AND SPECIAL RULES.—

''(1) ADULT DAY CARE.—The term 'adult day care' means care provided for a qualified senior citizen through a structured, community-based group program which provides health, social, and other related support services on a less than 16-hour per day basis.

''(2) RESPITE CARE.—The term 'respite care' means planned or emergency care provided to a qualified senior citizen in order to provide temporary relief to a caregiver of such senior citizen.

''(3) MARRIED INDIVIDUALS.—Rules similar to the rules of paragraphs (2), (3), and (4) of section 21(e) shall apply for purposes of this section.

''(4) NO DOUBLE BENEFIT.—No deduction or other credit under this chapter shall take into account any expense taken into account for purposes of determining the credit under this section.

''(5) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No credit shall be allowed under subsection (a) for any amount paid to any person unless—

''(A) the name, address, and taxpayer identification number of such person are included on the return claiming the credit, or

''(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required.

''(6) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO QUALIFIED SENIOR CITIZENS.—No credit shall be allowed under this section with respect to any qualified senior citizen unless the TIN of such senior citizen is included on the return claiming the credit.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6213(g)(2)(H) of the Internal Revenue Code of 1986 (relating to mathematical or clerical error) is amended by inserting '', section 25C (relating to elder care expenses),'' after ''employment)''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C Elder care expenses.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred in taxable years beginning after December 31, 2004.

SENIOR ELDER CARE RELIEF AND EMPOWERMENT (SECURE) ACT

BRIEF SUMMARY OF PROVISIONS

April 2005

How is the tax credit structured?

50% tax credit rate for qualified expenses for elder care provided to a qualified senior citizen with long-term care needs, for all qualified expenses above a ''floor'' of $1,000 already provided by the taxpayer (for example: $500 credit on first $2,000 spent; $10,000 credit on first $21,000 spent).

What are the qualifications for beneficiaries of the tax credit?

Must have reached at least normal retirement age under Social Security (currently age 65), Certification by a licensed physician that the cared-for senior is unable to perform at least two basic activities of daily living.

Who can claim the credit?

Senior for his/her own care, Taxpaying family member, Any taxpaying family claiming the cared-for senior as a dependent.

What are the qualified expenses?

Un-reimbursable costs (those not covered by Medicare or other insurance), Physical assistance with essential daily activities to prevent injury, Long-term care expenses including normal household services, Architectural expenses necessary to modify the senior's residence, Respite care, Adult daycare, Assisted living services (non-housing related expenses), Independent living, Home care, Home health care.

AMENDMENTS SUBMITTED AND PROPOSED

SA 466. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 467. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 468. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 469. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 470. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 471. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 472. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 473. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 474. Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 475. Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 476. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 477. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 478. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 479. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 480. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 481. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra.

SA 482. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 483. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 484. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 485. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 486. Mrs. DOLE (for herself and Mr. BURR) submitted an amendment intended to

be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 487. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 488. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 489. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 490. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 491. Mr. McCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 492. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 493. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 494. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 495. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 496. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 497. Ms. MIKULSKI (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill H.R. 1268, to amend title XVIII of the Social Security Act to improve the benefits under the Medicare Program for beneficiaries with kidney disease, and for other purposes; which was ordered to lie on the table.

SA 498. Mr. WARNER (for himself, Mr. NELSON, of Florida, Mr. ALLEN, and Mr. TALENT) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table.

SA 499. Mr. WARNER (for himself, Mr. NELSON, of Florida, Mr. ALLEN, Mr. TALENT, Ms. COLLINS, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra.

SA 500. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 501. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 502. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 503. Mr. DURBIN (for himself, Mr. LEVIN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 504. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 505. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 506. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 507. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 508. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 509. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 510. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

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SA 514. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 515. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 516. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 517. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 518. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 519. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 520. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 521. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 522. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 523. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 524. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 525. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 526. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 527. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 528. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 529. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 530. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 531. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 532. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 533. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

SA 534. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, supra; which was ordered to lie on the table.

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SA 536. Mr. COCHRAN (for Mr. BOND) proposed an amendment to the bill H.R. 1268, supra.

SA 537. Mr. REID (for Mr. BIDEN (for himself, Mr. LAUTENBERG, and Mrs. BOXER)) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 1268, supra.

TEXT OF AMENDMENTS

THURSDAY, APRIL 14, 2005

SA 375. Mr. CRAIG (for himself and Mr. KENNEDY) proposed an amendment to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

TITLE VII—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY ACT OF 2005

SEC. 701. 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. 702. 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. 711. 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 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this 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 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7)(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. 712. 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. 721. 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 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. 731. 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 721 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 721 of this Act, and the provisions of this Act.

SEC. 732. 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 721 of this Act, shall take effect on the effective date of section 721 and shall be issued not later than 1 year after the date of enactment of this Act.

SEC. 733. 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. 734. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided, sections 721 and 731 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.

TEXT OF AMENDMENTS

SA 466. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REFUNDABLE WAGE DIFFERENTIAL CREDIT FOR ACTIVATED MILITARY RESERVISTS

SEC. 1122. (a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

''SEC. 36. WAGE DIFFERENTIAL FOR ACTIVATED RESERVISTS.

''(a) IN GENERAL.—In the case of a qualified reservist, there shall be allowed as a credit against the tax imposed by this subtitle an amount equal to the qualified active duty wage differential of such qualified reservist for the taxable year.

''(b) QUALIFIED ACTIVE DUTY WAGE DIFFERENTIAL.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified active duty wage differential' means the daily wage differential of the qualified active duty reservist multiplied by the number of days such qualified reservist participates in qualified reserve component duty during the taxable year, including time spent in a travel status.

''(2) DAILY WAGE DIFFERENTIAL.—The daily wage differential is an amount equal to the lesser of—

''(A) the excess of—

''(i) the qualified reservist's average daily qualified compensation, over

''(ii) the qualified reservist's average daily military pay while participating in qualified reserve component duty to the exclusion of the qualified reservist's normal employment duties, or

''(B) $54.80.

''(3) AVERAGE DAILY QUALIFIED COMPENSATION.—

''(A) IN GENERAL.—The term 'average daily qualified compensation' means—

''(i) the qualified compensation of the qualified reservist for the one-year period ending on the day before the date the qualified reservist begins qualified reserve component duty, divided by

''(ii) 365.

''(B) QUALIFIED COMPENSATION.—The term 'qualified compensation' means—

''(i) compensation which is normally contingent on the qualified reservist's presence for work and which would be includible in gross income, and

''(ii) compensation which is not characterized by the qualified reservist's employer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence.

''(4) AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—

''(A) IN GENERAL.—The term 'average daily military pay and allowances' means—

''(i) the amount paid to the qualified reservist during the taxable year as military pay and allowances on account of the qualified reservist's participation in qualified reserve component duty, determined as of the date the qualified reservist begins qualified reserve component duty, divided by

''(ii) the total number of days the qualified reservist participates in qualified reserve component duty during the taxable year, including time spent in travel status.

''(B) MILITARY PAY AND ALLOWANCES.—The term 'military pay' means pay as that term is defined in section 101(21) of title 37, United States Code, and the term 'allowances' means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

''(5) QUALIFIED RESERVE COMPONENT DUTY.—The term 'qualified reserve component duty' means—

''(A) active duty performed, as designated in the reservist's military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code, or

''(B) full-time National Guard duty (as defined in section 101(19) of title 32, United States Code) which is ordered pursuant to a request by the President, for a period under 1 or more orders described in subparagraph (A) or (B) of more than 90 consecutive days.

''(c) QUALIFIED RESERVIST.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified reservist' means an individual who is engaged in normal employment and is a member of—

''(A) the National Guard (as defined by section 101(c)(1) of title 10, United States Code), or

''(B) the Ready Reserve (as defined by section 10142 of title 10, United States Code).

''(2) NORMAL EMPLOYMENT.—The term 'normal employment duties' includes self-employment.

''(d) DISALLOWANCE WITH RESPECT TO PERSONS ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit shall be allowed under subsection (a) to a qualified reservist who is called or ordered to active duty for any of the following types of duty:

''(1) Active duty for training under any provision of title 10, United States Code.

''(2) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

''(3) Full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

''(e) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed the taxpayer under this section.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 36 of such Code''.

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

''Sec. 36. Wage differential for activated reservists.

''Sec. 37. Overpayments of tax.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SA 467. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 202, strike lines 1 through 13.

SA 468. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 166, strike lines 10 through 20 and insert the following:

108–199 is amended by striking all after ''made available'' and substituting'', notwithstanding section 2218(c)(1) of title 10,

United States Code, for a grant to Philadelphia Regional Port Authority, to be used solely for the purpose of construction, by and for a Philadelphia-based company established to operate high-speed, advanced-design vessels for the transport of high-value, time-sensitive cargoes in the foreign commerce of the United States, of a marine cargo terminal and IT network for high-speed commercial vessels that is capable of supporting military sealift requirements, and that in making a grant to carry out this section, the Secretary of Defense shall solicit applications from not fewer than 4 such companies.

SA 469. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Strike title IV and insert the following:

TITLE IV—INDIAN OCEAN TSUNAMI RELIEF

CHAPTER 1

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for ''Procurement, Acquisition and Construction'', $10,170,000, to remain available until September 30, 2008, for United States tsunami warning capabilities: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF DEFENSE—MILITARY

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, NAVY

For an additional amount for ''Operation and Maintenance, Navy'', $124,100,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for ''Operation and Maintenance, Marine Corps'', $2,800,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for ''Operation and Maintenance, Air Force'', $30,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for ''Operation and Maintenance, Defense-Wide'', $29,150,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For an additional amount for ''Overseas Humanitarian, Disaster, and Civic Aid'', $36,000,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For an additional amount for ''Defense Health Program'', $3,600,000 for Operation and maintenance: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 3

DEPARTMENT OF HOMELAND SECURITY

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for ''Operating Expenses'', $350,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 4

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

TSUNAMI RECOVERY AND RECONSTRUCTION FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Foreign Assistance Act of 1961, for emergency relief, rehabilitation, and reconstruction aid to countries affected by the tsunami and earthquakes of December 2004 and March 2005, $304,370,000, to remain available until September 30, 2006: *Provided*, That these funds may be transferred by the Secretary of State to Federal agencies or accounts for any activity authorized under part I (including chapter 4 of part II) of the Foreign Assistance Act, or under the Agricultural Trade Development and Assistance Act of 1954, to accomplish the purposes provided herein: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That funds appropriated under this heading may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act, including Public Law 480 Title II grants: *Provided further*, That of the amounts provided herein: up to $10,000,000 may be transferred to and consolidated with ''Development Credit Authority'' for the cost of direct loans and loan guarantees as authorized by sections 256 and 635 of the Foreign Assistance Act of 1961 in furtherance of the purposes of this heading; up to $20,000,000 may be transferred to and consolidated with ''Operating Expenses of the United States Agency for International Development'', of which up to $2,000,000 may be used for administrative expenses to carry out credit programs administered by the United States Agency for International Development in furtherance of the purposes of this heading; up to $500,000 may be transferred to and consolidated with ''Operating Expenses of the United States Agency for International Development Office of Inspector General''; and up to $5,000,000 may be transferred to and consolidated with ''Emergencies in the Diplomatic and Consular Service'' for the purpose of providing support services for United States citizen victims and related operations: *Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for environmental recovery activities in Aceh, Indonesia, to be administered by the United States Fish and Wildlife Service: *Provided further*, That of the funds appropriated under this heading, not less than $12,000,000 should be made available for programs to address the needs of people with physical and mental disabilities resulting from the tsunami: *Provided further*, That of the funds appropriated under this heading, not less than $25,000,000 should be made available for programs to prevent the spread of the Avian flu: *Provided further*, That of the funds appropriated under this heading, $1,500,000 shall be made available for trafficking in persons monitoring and prevention programs and activities in tsunami affected countries: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

ANNUAL LIMITATION

SEC. 4501. Amounts made available pursuant to section 492(b) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2292a), to address relief and rehabilitation needs for countries affected by the Indian Ocean tsunami and earthquakes of December 2004 and March 2005, prior to the enactment of this Act, shall be in addition to the amount that may be obligated in fiscal year 2005 under that section.

AUTHORIZATION OF FUNDS

SEC. 4502. Funds appropriated by this chapter and chapter 2 of title II may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), section 10 of Public Law 91–672 (22 U.S.C. 2412), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

SA 470. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

Strike title II and insert the following:

TITLE II—INTERNATIONAL PROGRAMS AND ASSISTANCE FOR RECONSTRUCTION AND THE WAR ON TERROR

CHAPTER 1

DEPARTMENT OF AGRICULTURE

FOREIGN AGRICULTURAL SERVICE

PUBLIC LAW 480 TITLE II GRANTS

For additional expenses during the current fiscal year, not otherwise recoverable, and

unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, for commodities supplied in connection with dispositions abroad under title II of said Act, $58,791,560, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CHAPTER 2

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for ''Diplomatic and Consular Programs'', $757,700,000, to remain available until September 30, 2006, of which $10,000,000 is provided for security requirements in the detection of explosives: *Provided*, That of the funds appropriated under this heading, not less than $250,000 shall be made available for programs to assist Iraqi and Afghan scholars who are in physical danger to travel to the United States to engage in research or other scholarly activities at American institutions of higher education: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for ''Embassy Security, Construction, and Maintenance'', $232,030,691, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for ''Contributions for International Peacekeeping Activities'', $680,000,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for ''International Broadcasting Operations'' for activities related to broadcasting to the broader Middle East, $4,800,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for ''Broadcasting Capital Improvements'' for capital improvements related to broadcasting to the broader Middle East, $2,500,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for ''International Disaster and Famine Assistance'', $17,245,524, to remain available until expended, for emergency expenses related to the humanitarian crisis in the Darfur region of Sudan: *Provided*, That these funds may be used to reimburse fully accounts administered by the United States Agency for International Development for obligations incurred for the purposes provided under this heading prior to enactment of this Act from funds appropriated for foreign operations, export financing, and related programs: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

TRANSITION INITIATIVES

For an additional amount for ''Transition Initiatives'', $24,692,455, to remain available until expended, for necessary international disaster rehabilitation and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, to support transition to democracy and the long-term development of Sudan: *Provided*, That such support may include assistance to develop, strengthen, or preserve democratic institutions and processes, revitalize basic infrastructure, and foster the peaceful resolution of conflict: *Provided further*, That of the funds appropriated under this heading, not less than $2,500,000 shall be made available for criminal case management, case tracking, and the reduction of pre-trial detention in Haiti, notwithstanding any other provision of law: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

For an additional amount for ''Operating Expenses of the United States Agency for International Development'', $24,400,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For an additional amount for ''Operating Expenses of the United States Agency for International Development Office of Inspector General'', $2,500,000, to remain available until September 30, 2006: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''Economic Support Fund'', $1,631,300,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, $200,000,000 should be made available for programs, activities, and efforts to support Palestinians, of which $50,000,000 should be made available for assistance for Israel to help ease the movement of Palestinian people and goods in and out of Israel: *Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for assistance for displaced persons in Afghanistan: *Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 should be made available to support Afghan women's organizations that work to defend the legal rights of women and to increase women's political participation: *Provided further*, That of the funds appropriated under this heading, up to $10,000,000 may be transferred to the Overseas Private Investment Corporation for the cost of direct and guaranteed loans as authorized by section 234 of the Foreign Assistance Act of 1961: *Provided further*, That such costs, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

For an additional amount for ''Assistance for the Independent States of the Former Soviet Union'' for assistance to Ukraine, $70,000,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, $5,000,000 shall be made available for democracy programs in Belarus, which shall be administered by the Bureau of Democracy, Human Rights and Labor, Department of State: *Provided further*, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available through the United States Agency for International Development for humanitarian, conflict mitigation, and other relief and recovery assistance for needy families and communities in Chechnya, Ingushetia and elsewhere in the North Caucasus: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for ''International Narcotics Control and Law Enforcement'', $258,682,864, to remain available until September 30, 2007, of which up to $46,000,000 may be transferred to and merged with ''Economic Support Fund'' if the Secretary of State, after consultation with the Committees on Appropriations, determines that this transfer is the most effective and timely use of resources to carry out counternarcotics and reconstruction programs: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for ''Migration and Refugee Assistance'', $108,400,000, to remain available until September 30, 2006: *Provided*, That of the funds appropriated under this heading, not less than $55,000,000 shall be made available for assistance for refugees in Africa and to fulfill refugee protection goals set by the President for fiscal year 2005: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $22,979,156, to remain available until September 30, 2006, of which not to exceed $5,879,156, to remain available until expended, may be made available for the Nonproliferation and Disarmament Fund, notwithstanding any other provision of law, to promote bilateral and multilateral activities relating to nonproliferation and disarmament: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

FUNDS APPROPRIATED TO THE PRESIDENT

OTHER BILATERAL ASSISTANCE

GLOBAL WAR ON TERROR PARTNERS FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out the purposes of the Foreign Assistance Act of 1961 for responding to urgent economic support requirements in countries supporting the United States in the Global War on Terror, $15,677,749, to remain available until expended: *Provided*, That these funds may be used only pursuant to a determination by the President, and after consultation with the Committees on Appropriations, that such use will support the global war on terrorism to furnish economic assistance to partners on such terms and conditions as he may determine for such purposes, including funds on a grant basis as a cash transfer: *Provided further*, That funds made available under this heading may be transferred by the Secretary of State to other Federal agencies or accounts to carry out the purposes under this heading: *Provided further*, That upon a determination that all or part of the funds so transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in the Act for the use of economic assistance: *Provided further*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for ''Foreign Military Financing Program'', $250,000,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

PEACEKEEPING OPERATIONS

For an additional amount for ''Peacekeeping Operations'', $210,000,000, to remain available until September 30, 2006, of which $200,000,000 is for military and other security assistance to coalition partners in Iraq and Afghanistan: *Provided*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations, except that such notifications shall be submitted no less than five days prior to the obligation of funds: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

GENERAL PROVISIONS, THIS CHAPTER

VOLUNTARY CONTRIBUTION

SEC. 2101. Section 307(a) of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2227), is further amended by striking ''Iraq,''.

REPORTING REQUIREMENT

SEC. 2102. Not later than 60 days after the date of enactment of this Act, the President shall submit a report to the Congress detailing: (1) information regarding the Palestinian security services, including their numbers, accountability, and chains of command, and steps taken to purge from their ranks individuals with ties to terrorist entities; (2) specific steps taken by the Palestinian Authority to dismantle the terrorist infrastructure, confiscate unauthorized weapons, arrest and bring terrorists to justice, destroy unauthorized arms factories, thwart and preempt terrorist attacks, and cooperate with Israel's security services; (3) specific actions taken by the Palestinian Authority to stop incitement in Palestinian Authority-controlled electronic and print media and in schools, mosques, and other institutions it controls, and to promote peace and coexistence with Israel; (4) specific steps the Palestinian Authority has taken to ensure democracy, the rule of law, and an independent judiciary, and transparent and accountable governance; (5) the Palestinian Authority's cooperation with United States officials in investigations into the late Palestinian leader Yasser Arafat's finances; and (6) the amount of assistance pledged and actually provided to the Palestinian Authority by other donors: *Provided*, That not later than 180 days after enactment of this Act, the President shall submit to the Congress an update of this report: *Provided further*, That up to $5,000,000 of the funds made available for assistance for the West Bank and Gaza by this chapter under ''Economic Support Fund'' shall be used for an outside, independent evaluation by an internationally recognized accounting firm of the transparency and accountability of Palestinian Authority accounting procedures and an audit of expenditures by the Palestinian Authority.

(RESCISSION OF FUNDS)

SEC. 2103. The unexpended balance appropriated by Public Law 108–11 under the heading ''Economic Support Fund'' and made available for Turkey is rescinded.

DEMOCRACY EXCEPTION

SEC. 2104. Funds appropriated for fiscal year 2005 under the heading ''Economic Support Fund'' may be made available for democracy and rule of law programs and activities, notwithstanding the provisions of section 574 of division D of Public Law 108–447.

SA 471. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 172, strike ''$592,000,000'' and insert ''$106,000,000''.

SA 472. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. Notwithstanding any other provision of law, beginning in fiscal year 2005 and thereafter, none of the funds made available by this or any other Act shall be used to pay the salaries or expenses of any employee of any agency or office to implement or enforce section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) or any other provision of law in a manner other than a manner that permits payment by the purchaser of an agricultural commodity or product to the seller, and receipt of the payment by the seller, at any time prior to—

(1) the transfer of the title of the commodity or product to the purchaser; and

(2) the release of control of the commodity or product to the purchaser.

SA 473. Mr. COCHRAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. None of the funds made available by this or any other Act may be used to deny the provision of assistance under section 310B(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(1)) solely due to the failure of the Secretary of Labor to respond to a request to certify assistance within the time period specified in section 310B(d)(4) of that Act.

SA 474. Mr. CRAIG (for himself and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security

standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 157, strike line 17 and all that follows through page 158, line 19, and insert the following:

(e) SPOUSAL NOTIFICATION.—Section 1967(a)(3)(B) of title 38, United States Code, is amended—

(1) by inserting ''(i)'' after ''(B)''; and

(2) by adding at the end the following:

''(ii) The Secretary shall make a good-faith effort to notify the spouse of a member if the member elects to—

''(I) change the amount of insurance coverage under this subsection; or

''(II) add a beneficiary other than the spouse.

''(iii) The failure of the Secretary to provide timely notification under clause (ii) shall not affect the validity of an election by the member.

''(iv) If a servicemember marries or remarries after making an election under clause (ii), the Secretary is not required to notify the spouse of such election. Elections made after marriage or remarriage are subject to the notice requirement under clause (ii)''.

SA 475. Mr. CRAIG (for himself, Mr. BAUCUS, Mr. ROBERTS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. (a) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office to implement or enforce section 908(b)(1)(A) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7207(b)(1)(A)) or any other provision of law in a manner other than a manner that permits payment by the purchaser of an agricultural commodity or product to the seller, and receipt of the payment by the seller, at any time prior to—

(1) the transfer of the title of the commodity or product to the purchaser; and

(2) the release of control of the commodity or product to the purchaser.

(b) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office that refuses to authorize the issuance of a general license for travel-related transactions listed in subsection (c) of section 515.560 of title 31, Code of Federal Regulations, for travel to, from, or within Cuba undertaken in connection with sales and marketing, including the organization and participation in product exhibitions, and the transportation by sea or air of products pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000.

(c) Notwithstanding any other provision of this Act, beginning in fiscal year 2005 and thereafter, none of the funds made available by this Act shall be used to pay the salaries or expenses of any employee of any agency or office that restricts the direct transfers from a Cuban financial institution to a United States financial institution executed in payment for a product authorized for sale under the Trade Sanctions Reform and Export Enhancement Act of 2000.

SA 476. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 198, between lines 21 and 22, insert the following:

SEC. 5134. Of the amount provided to the Secretary of Agriculture under the Consolidated Appropriations Act, 2005 (Public Law 108–447) for the Lost River Watershed project, West Virginia, $4,000,000 shall be transferred to the Upper Tygart Watershed project, West Virginia, to be used under the same terms and conditions under which funds for that project were appropriated in section 735 of the Consolidated Appropriations Act, 2004 (Public Law 108–199; 118 Stat. 36).

SA 477. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. FLOODED CROP AND GRAZING LAND.

(a) IN GENERAL.—The Secretary of Agriculture shall compensate eligible owners of flooded crop and grazing land in—

(1) the Devils Lake basin; and

(2) the McHugh, Lake Laretta, and Rose Lake closed drainage areas of the State of North Dakota.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive compensation under this section, an owner shall own land described in subsection (a) that, during the 2 crop years preceding receipt of compensation, was rendered incapable of use for the production of an agricultural commodity or for grazing purposes (in a manner consistent with the historical use of the land) as the result of flooding, as determined by the Secretary.

(2) INCLUSIONS.—Land described in paragraph (1) shall include—

(A) land that has been flooded;

(B) land that has been rendered inaccessible due to flooding; and

(C) a reasonable buffer strip adjoining the flooded land, as determined by the Secretary.

(3) ADMINISTRATION.—The Secretary may establish—

(A) reasonable minimum acreage levels for individual parcels of land for which owners may receive compensation under this section; and

(B) the location and area of adjoining flooded land for which owners may receive compensation under this section.

(c) SIGN-UP.—The Secretary shall establish a sign-up program for eligible owners to apply for compensation from the Secretary under this section.

(d) COMPENSATION PAYMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the rate of an annual compensation payment under this section shall be equal to 90 percent of the average annual per acre rental payment rate (at the time of entry into the contract) for comparable crop or grazing land that has not been flooded and remains in production in the county where the flooded land is located, as determined by the Secretary.

(2) REDUCTION.—An annual compensation payment under this section shall be reduced by the amount of any conservation program rental payments or Federal agricultural commodity program payments received by the owner for the land during any crop year for which compensation is received under this section.

(3) EXCLUSION.—During any year in which an owner receives compensation for flooded land under this section, the owner shall not be eligible to participate in or receive benefits for the flooded land under—

(A) the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(B) the noninsured crop assistance program established under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); or

(C) any Federal agricultural crop disaster assistance program.

(e) RELATIONSHIP TO AGRICULTURAL COMMODITY PROGRAMS.—The Secretary, by regulation, shall provide for the preservation of cropland base, allotment history, and payment yields applicable to land described in subsection (a) that was rendered incapable of use for the production of an agricultural commodity or for grazing purposes as the result of flooding.

(f) USE OF LAND.—

(1) IN GENERAL.—An owner that receives compensation under this section for flooded land shall take such actions as are necessary to not degrade any wildlife habitat on the land that has naturally developed as a result of the flooding.

(2) RECREATIONAL ACTIVITIES.—To encourage owners that receive compensation for flooded land to allow public access to and use of the land for recreational activities, as determined by the Secretary, the Secretary may—

(A) offer an eligible owner additional compensation; and

(B) provide compensation for additional acreage under this section.

(g) FUNDING.—

(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise

appropriated, to carry out this section $20,000,000 for fiscal year 2005, to remain available until expended: *Provided*, That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(2) PRO-RATED PAYMENTS.—In a case in which the amount made available under paragraph (1) for a fiscal year is insufficient to compensate all eligible owners under this section, the Secretary shall pro-rate payments for that fiscal year on a per acre basis.

SA 478. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 201, after line 23, insert the following:

INDIAN HEALTH SERVICE

SEC. 5301. (a) In this section, the term ''critical access facility'' means a comprehensive ambulatory care center that provides services on a regional basis to Native Americans in Albuquerque, New Mexico, and surrounding areas.

(b) The Albuquerque Indian Health Center (also known as the ''Albuquerque Indian Hospital'') is designated as a critical access facility.

(c) There is authorized to be appropriated for the Albuquerque Indian Health Center $8,000,000 for fiscal year 2006.

SA 479. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

ASSISTANCE PROGRAMS FOR MEMBERS OF THE ARMY RESERVE

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY RESERVE.—The amount appropriated by this chapter under the heading ''OPERATION AND MAINTENANCE, ARMY RESERVE'' is hereby increased by $34,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OPERATION AND MAINTENANCE, ARMY RESERVE'', as increased by subsection (a), $34,000,000 shall be available for assistance programs for members of the Army Reserve as follows:

(1) $17,600,000 shall be available for tuition assistance programs as authorized by law.

(2) $4,300,000 shall be available for the welcome home warrior-citizen program.

(3) $6,500,000 shall be available for the conduct of marriage workshops to assist members of the Army Reserve.

(4) $5,600,000 shall be available for family programs.

SA 480. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

TUITION ASSISTANCE PROGRAMS OF THE ARMY RESERVE

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY RESERVE.—The amount appropriated by this chapter under the heading ''OPERATION AND MAINTENANCE, ARMY RESERVE'' is hereby increased by $17,600,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OPERATION AND MAINTENANCE, ARMY RESERVE'', as increased by subsection (a), $17,600,000 shall be available for tuition assistance programs for members of the Army Reserve as authorized by law.

SA 481. Mrs. LINCOLN (for herself and Mr. PRYOR) submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 169, between lines 8 and 9, insert the following:

ACCUMULATION OF LEAVE BY MEMBERS OF THE NATIONAL GUARD

SEC. 1122. Section 701(a) of title 10, United States Code, is amended by adding at the end the following new sentence: ''In the case of a member of the Army National Guard of the United States or the Air National Guard of the United States who serves on active duty for more than 179 consecutive days, full-time training or other full-time duty performed by such member during the 5-year period ending on the 180th day of such service under a provision of law referred to in the preceding sentence, while such member was in the status as a member of the National Guard, and for which such member was entitled to pay, is active service for the purposes of this section.''.

SA 482. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

REPORT ON IMPLEMENTATION OF POST DEPLOYMENT STAND-DOWN PROGRAM BY ARMY NATIONAL GUARD

SEC. 1122. Not later than 60 days after the date of the enactment of this Act, the Secretary of the Army shall submit to the congressional defense committees a report containing the assessment of the Secretary of the feasibility and advisability of implementing for the Army National Guard a program similar to the Post Deployment Stand-Down Program of the Air National Guard. The Secretary of the Army shall prepare the assessment in consultation with the Secretary of the Air Force.

SA 483. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 202, strike line 24, and insert ''$65,000,000, to remain available until September 30, 2006, of which $5,000,000 shall be made available for costs associated with increases in immigration-related filings in district courts near the southwestern border of the United States:''.

SA 484. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and

removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 152, line 2, strike ''$43,000,000'' and insert ''$75,000,000': *Provided*, That the Secretary of Defense is encouraged in the consideration of the use of such amount to give priority to the procurement of manportable air defense (MANPAD) systems''.

SA 485. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SENSE OF CONGRESS ON MEMBERSHIP OF ISRAEL IN THE WESTERN EUROPEAN AND OTHERS GROUP AT THE UNITED NATIONS

SEC. 6047. (a) Congress makes the following findings:

(1) The election of member states of the United Nations to the major bodies of the United Nations is determined by groups organized within the United Nations, most of which are organized on a regional basis.

(2) Israel has been refused admission to the group comprised of member states from the Asian geographical region of the United Nations and is the only member state of the United Nations that remains outside its appropriate geographical region, and is thus denied full participation in the day-to-day work of the United Nations.

(3) On May 30, 2000, Israel accepted an invitation to become a temporary member of the Western European and Others Group of the United Nations.

(4) On May 21, 2004, Israel's membership to the Western European and Others Group was extended indefinitely.

(5) Israel is only allowed to participate in limited activities of the Western European and Others Group in the New York office of the United Nations, is excluded from discussions and consultations of the Group at the United Nations offices in Geneva, Nairobi, Rome, and Vienna, and, may not participate in United Nations conferences on human rights, racism, or other issues held in such locations.

(6) Membership in the Western European and Others Group includes the non-European countries of Canada, Australia, and the United States.

(7) Israel is linked to the member states of the Western European and Others Group by strong economic, political, and cultural ties.

(8) The Western European and Others Group, the only regional group of the United Nations that is not purely geographical, is comprised of countries that share a western democratic tradition.

(9) Israel is a free and democratic country and its voting pattern in the United Nations is consistent with that of the member states of the Western European and Others Group.

(b) It is the sense of Congress that—

(1) the President should direct the United States Permanent Representative to the United Nations to seek an immediate end to the persistent and deplorable inequality experienced by Israel in the United Nations;

(2) Israel should be afforded the benefits of full membership in the Western European and Others Group at the United Nations and such membership would permit Israel to participate fully in the United Nations system and would serve the interests of the United States; and

(3) the Secretary should submit to Congress, on a regular basis, a report that describes actions taken by the United States Government to encourage the member states of the Western European and Others Group to accept Israel as a full member of such Group and the responses of such member states to those actions.

SA 486. Mr. DOLE (for herself and Mr. BURR) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5

DEPARTMENT OF DEFENSE

MANTEO (SHALLOWBAG) BAY, NORTH CAROLINA

OPERATIONS AND MAINTENANCE

For an additional amount to the Secretary of the Army, acting through the Chief of Engineers, for activities of the Corps of Engineers at Manteo (Shallowbag) Bay, North Carolina, $6,500,000, to remain available until expended: *Provided*, That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 487. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 191, after line 25, insert the following:

CUSTOMS AND BORDER PROTECTION

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', for hiring border patrol agents, $105,451,000: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

CONSTRUCTION

For an additional amount for ''Construction'', $41,500,000, to remain available until expended: *Provided*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

REDUCTION IN FUNDING

The amount appropriated by title II for ''Contributions to International Peacekeeping Activities'' is hereby reduced by $146,951,000 and the total amount appropriated by title II is hereby reduced by $146,951,000.

SA 488. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, line 23 after the period insert the following:

CANDIDATE COUNTRIES

SEC. ____. Section 616(b)(1) of the Millennium Challenge Act of 2003 (Public Law 108–199) is amended—

(1) by striking ''subparagraphs (A) and (B) of section 606(a)(1)''; and,

(2) inserting in lieu thereof ''subsection (a) or (b) of section 606''.

SA 489. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 194, line 9, after the colon insert the following:

Provided further, That of the funds appropriated under this heading, not less than $10,000,000 shall be made available for programs and activities which create new economic opportunities for women:

SA 490. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and

removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

PROTECTION OF THE GALAPAGOS

SEC. . (a) FINDINGS.—The Senate makes the following findings—

(1) The Galapagos Islands are a global treasure and World Heritage Site, and the future of the Galapagos is in the hands of the Government of Ecuador;

(2) The world depends on the Government of Ecuador to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos, including enforcing the Galapagos Special Law;

(3) There are concerns with the current leadership of the Galapagos National Park Service and that the biodiversity of the Galapagos and the Marine Reserve are not being properly managed or adequately protected; and

(4) The Government of Ecuador has reportedly given preliminary approval for commercial airplane flights to the Island of Isabela, which may cause irreparable harm to the biodiversity of the Galapagos, and has allowed the export of fins from sharks caught accidentally in the Marine Reserve, which encourages illegal fishing.

(b) Whereas, now therefore, be it

Resolved, That—

(1) the Senate strongly encourages the Government of Ecuador to—

(A) refrain from taking any action that could cause harm to the biodiversity of the Galapagos or encourage illegal fishing in the Marine Reserve;

(B) abide by the agreement to select the Directorship of the Galapagos National Park Service though a transparent process based on merit as previously agreed by the Government of Ecuador, international donors, and nongovernmental organizations; and

(C) enforce the Galapagos Special Law in its entirety, including the governance structure defined by the law to ensure effective control of migration to the Galapagos and sustainable fishing practices, and prohibit long-line fishing which threatens the survival of shark and marine turtle populations.

(2) The Department of State should—

(A) emphasize to the Government of Ecuador the importance the United States gives to these issues; and

(B) offer assistance to implement the necessary policies and programs to ensure the long term protection of the biodiversity of the Galapagos and the Marine Reserve and to sustain the livelihoods of the Galapagos population who depend on the marine ecosystem for survival.

SA 491. MCCONNELL submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 194, line 19 after the colon insert the following:

Provided further, That the President is hereby authorized to defer and reschedule for such period as he may deem appropriate any amounts owed to the United States or any agency of the United States by those countries significantly affected by the tsunami and earthquakes of December 2004, including the Republic of Indonesia, the Republic of Maldives and the Democratic Socialist Republic of Sri Lanka: Provided further, That of the funds appropriated under this heading, up to $45,000,000 may be made available for the modification costs, as defined in section 502 of the Congressional Budget Act of 1974, if any, associated with any deferral and rescheduling authorized under this heading: Provided further, That such amounts shall not be considered ''assistance'' for the purposes of provisions of law limiting assistance to any such affected country:

SA 492. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place in the bill, insert the following:

NEPAL

SEC. (a) FINDINGS.—The Senate makes the following findings—

That, on February 1, 2005, Nepal's King Gyanendra dissolved the multi-party government, suspended constitutional liberties, and arrested political party leaders, human rights activists and representatives of civil society organizations.

That, despite condemnation of the King's actions and the suspension of military aid to Nepal by India and Great Britain, and similar steps by the United States, the King has refused to restore constitutional liberties and democracy.

That, there are concerns that the King's actions will strengthen Nepal's Maoist Insurgency.

That, while some political leaders have been released from custody, there have been new arrests of human rights activists and representatives of other civil society organizations.

That, the King has thwarted efforts of members of the National Human Rights Commission to conduct monitoring activities, but recently agreed to permit the United Nations High Commissioner for Human Rights to open an office in Katmandu to monitor and investigate violations.

That, the Maoists have committed atrocities agamst civilians and poses a threat to democracy in Nepal.

That, the Nepalese Army has also committed gross violations of human rights.

That, King Gyanendra has said that he intends to pursue a military strategy against the Maoists.

That, Nepal needs an effective military strategy to counter the Maoists and pressure ry them to negotiate an end to the conflict, but such a strategy must include the Nepalese Anny's respect for the human rights and dignity of the Nepalese people.

That, an effective strategy to counter the Maoists also requires a political process that is inclusive and democratic in which constitutional rights are protected, and government policies that improve the lives of the Nepalese people.

(b) Now therefore, be it

Resolved, that it is the Sense of the Senate that King Gyanendra should immediately release all political detainees, restore constitutional liberties, and undertake good faith negotiations with the leaders of Nepal's political parties to restore democracy.

SA 493. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, line 12, after the colon insert the following:

Provided further, That of the funds appropriated under this heading, not less than $5,000,000 shall be made available for assistance for families and communities of Afghan civilians who have suffered losses as a result of the military operations:

On page 183, line 23, add the following new section:

MARLA RUZICKA IRAQI WAR VICTIMS FUND

SEC. . Of the funds appropriated by chapter 2 of title II of PL 108–106 under the heading ''Iraq Relief and Reconstruction Fund'', not less than $30,000,000 shall be made available for assistance for families and communities of Iraqi civilians who have suffered losses as a result of the military operations: Provided, That such assistance shall be designated as the ''Marla Ruzicka Iraqi War Victims Fund''.

SA 494. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

REPORTING REQUIREMENTS ON SPENDING ON RECONSTRUCTION IN IRAQ

SEC. 6047. (a) Subsection (a) of section 2207 of the Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan, 2004 (Public Law 108–106; 22 U.S.C. 2151 note) is amended—

(1) in the matter preceding paragraph (1), by striking ''the Committees on Appropriations'' and inserting ''the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate, and the Committee on

Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives, and make available to the public on the Department of State's website''; and

(2) by inserting after paragraph (4) the following new paragraphs:

''(5) The number and costs of projects started and completed by governorate and sector, and a list of projects expected to be completed within the next quarter.

''(6) A strategy for using reconstruction funds to develop Iraq's governing capacity, including—

''(A) a description of the governing capacity of the Iraqi government ministries, the standards used to measure that capacity, and how reconstruction funds are helping to develop that capacity;

''(B) a description of how projects will lead to material benefits to the Iraqi people;

''(C) the proportion of reconstruction funds, by sector, spent on training Iraqi civil servants and public sector employees;

''(D) a description of the training curricula and goals;

''(E) the number of Iraqi civil servants and public sector employees receiving training, including technical, financial or managerial training; and

''(F) the efforts made to reduce corruption in the performance of these funds and in the Iraqi government ministries.

''(7) Information on employment created using such funds, including—

''(A) the average number of Iraqi citizens employed, by governorate, during the preceding 3 months;

''(B) the average number of United States citizens employed during the preceding 3 months;

''(C) the average number of citizens of other countries employed during the preceding 3 months;

''(D) the proportion of total salary payments to Iraqi citizens during the preceding 3 months; and

''(E) the proportion and value of subcontracts awarded to Iraqi firms, by sector.

''(8) Data on reconstruction spending by governorate, including a description of the role of municipal or local councils and provincial governments in determining reconstruction priorities and the proportion of funds programmed in direct consultation with such institutions.

''(9) The costs of security in the use of such funds, including—

''(A) security subcontractor costs and physical and ongoing security costs;

''(B) indirect costs, such as construction delays lost to security concerns;

''(C) insurance costs; and

''(D) the extent to which insurgent activity has resulted in projects requiring additional reconstruction.

''(10) The status of international reconstruction assistance to Iraq and how such assistance is coordinated with United States efforts.

''(11) Estimates of public and private debt owed by the Government of Iraq, disaggregated by lender country, and efforts made to reduce such debt.''.

(b) Subsection (c) of such section is amended by striking ''the Committees on Appropriations'' and inserting ''the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate, and the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives''.

(c) Subsection (d) of such section is amended by striking ''on October 1, 2007'' and inserting ''90 days after the date on which 100 percent of the funds described in this section are expended''.

(d) Such section is further amended by adding at the end the following new subsections:

''(e) The Administrator of the United States Agency for International Development shall work with the government of Iraq to conduct and include in each report or update submitted under this section, a quarterly standardized household survey, with a representative sample at the provincial level in Iraq, to assess the availability and access to certain essential services in Iraq, including, at a minimum, the following services:

''(1) Health services.

''(2) Education.

''(3) Electricity.

''(4) Potable water.

''(5) Sewage.

''(6) Solid waste removal.

''(7) Law enforcement.

''(8) Transportation.

''(9) Communications.

''(f) The Secretary of State shall have each report or update submitted under this section translated into Arabic, posted on the website of the United States embassy in Baghdad, and made available to the Government of Iraq.''.

SA 495. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DEPLOYMENT OF WARLOCK SYSTEMS AND OTHER FIELD JAMMING SYSTEMS

SEC. —. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated under the heading ''OTHER PROCUREMENT, ARMY'' is hereby increased by $35,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available under the heading ''OTHER PROCUREMENT, ARMY'', as increased by subsection (a), $60,000,000 shall be available under the Tactical Intelligence and Related Activities (TIARA) program to facilitate the rapid deployment of Warlock systems and other field jamming systems.

SA 496. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. TECHNICAL CORRECTION TO THE MEDICARE HEALTH CARE INFRASTRUCTURE IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 1897(c) of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended—

(1) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting ''or an entity described in paragraph (3)'' after ''means a hospital''; and

(B) in subparagraph (B)—

(i) by inserting ''legislature'' after ''State'' the first place it appears; and

(ii) by inserting ''and such designation by the State legislature occurred prior to December 8, 2003'' before the period at the end; and

(2) by adding at the end the following new paragraph:

''(3) ENTITY DESCRIBED.—An entity described in this paragraph is an entity that—

''(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code;

''(B) has at least 1 existing memorandum of understanding or affiliation agreement with a hospital located in the State in which the entity is located; and

''(C) retains clinical outpatient treatment for cancer on site as well as lab research and education and outreach for cancer in the same facility.''.

(b) LIMITATION ON REVIEW.—Section 1897 of the Social Security Act (42 U.S.C. 1395hhh(c)) is amended by adding at the end the following new subsection:

''(i) LIMITATION ON REVIEW.—There shall be no administrative or judicial review of any determination made by the Secretary under this section.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 1016 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2447).

SA 497. Ms. MIKULSKI (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill H.R. 1298, to amend title XVIII of the Social Security Act to improve the benefits under the Medicare Program for beneficiaries with kidney disease, and for other purposes; which was ordered to lie on the table; as follows:

On page 162, between lines 22 and 23, insert the following:

(5) TREATMENT.—Any payment made under this subsection shall be treated as a payment of a death gratuity payable under chapter 75 of title 10, United States Code.

SA 498. Mr. WARNER (for himself, Mr. NELSON of Florida, Mr. ALLEN, and Mr. TALENT) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and

for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1122. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy by this Act, necessary funding will be made available for such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available by this Act may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(1) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(2) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to Congress that such agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers as are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

SA 499. Mr. WARNER (for himself, Mr. NELSON of Florida, Mr. ALLEN, Mr. TALENT, Ms. COLLINS, and Mr. MARTINEZ) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

On page 169, between lines 8 and 9, insert the following:

AIRCRAFT CARRIERS OF THE NAVY

SEC. 1122. (a) FUNDING FOR REPAIR AND MAINTENANCE OF U.S.S. JOHN F. KENNEDY.—Of the amount appropriated to the Department of the Navy by this Act, and by the Department of Defense Appropriations Act, 2005 (Public Law 108–287; 118 Stat. 954), an aggregate of $288,000,000 may be available only for repair and maintenance of the U.S.S. John F. Kennedy, and available to conduct such repair and maintenance of the U.S.S. John F. Kennedy as the Navy considers appropriate to extend the life of U.S.S. John F. Kennedy.

(b) LIMITATION ON REDUCTION IN NUMBER OF ACTIVE AIRCRAFT CARRIERS.—No funds appropriated or otherwise made available by this Act, or any other Act, may be obligated or expended to reduce the number of active aircraft carriers of the Navy below 12 active aircraft carriers until the later of the following:

(1) The date that is 180 days after the date of the submittal to Congress of the quadrennial defense review required in 2005 under section 118 of title 10, United States Code.

(2) The date on which the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, certifies to Congress that such agreements have been entered into to provide port facilities for the permanent forward deployment of such numbers of aircraft carriers as are necessary in the Pacific Command Area of Responsibility to fulfill the roles and missions of that Command, including agreements for the forward deployment of a nuclear aircraft carrier after the retirement of the current two conventional aircraft carriers.

(c) ACTIVE AIRCRAFT CARRIERS.—For purposes of this section, an active aircraft carrier of the Navy includes an aircraft carrier that is temporarily unavailable for worldwide deployment due to routing or scheduled maintenance.

SA 500. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 204, between lines 4 and 5, insert the following:

CHAPTER 5

DEPARTMENT OF DEFENSE

HOUSTON-GALVESTON NAVIGATION CHANNELS, TEXAS

CONSTRUCTION

For an additional amount to the Secretary of the Army, acting through the Chief of Engineers, for construction at the Houston-Galveston Navigation Channels, Texas, $10,000,000, to remain available until expended: *Provided,* That the amounts provided under this heading are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 501. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 203, between lines 17 and 18, insert the following:

CHAPTER ___

ELECTION REFORM

ELECTION ASSISTANCE COMMISSION

ELECTION REFORM PROGRAMS

For necessary expenses to carry out a program of requirements payments to States as authorized by section 257 of the Help America Vote Act of 2002, $727,000,000, to remain available until expended: *Provided,* That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DISABLED VOTER SERVICES

For necessary expenses to carry out programs as authorized by the Help America Vote Act of 2002, $95,000,000, to remain available until expended: *Provided,* That the entire amount is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 502. Mr. DODD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

MEDICAL SUPPORT FOR TACTICAL UNITS

SEC. 1122. Of the amount appropriated or otherwise made available by this chapter under the heading ''OPERATION AND MAINTENANCE, ARMY'', up to $11,500,000 may be available for—

(1) the replenishment of medical supply and equipment needs within the combat theaters of the Army, including bandages and other blood-clotting supplies that utilize hemostatic, wound-dressing technologies; and

(2) the provision of medical care for members of the Army who have returned to the United States from a combat theater and are in a medical holdover status.

SA 503. Mr. DURBIN (for himself, Mr. LEVIN, and Mr. KENNEDY) submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 141, line 7, strike ''That the Secretary'' and all that follows through ''appropriation:'' on lines 10 and 11, and insert

''That, not later than 30 days after the last day of each fiscal quarter, the Secretary shall submit to the congressional defense committees a report that summarizes the details of the transfer of funds from this appropriation and that includes a description of (1) the extent to which funding provided by this appropriation and such transfers will be used to train and equip capable and effectively led Iraqi security services and promote stability and security in Iraq; (2) the extent to which funding provided by this appropriation and such transfers will be used to train Iraqi security forces in counterinsurgency operations and the estimated total number of Iraqi security force personnel and Iraqi battalions expected to be trained, equipped, and capable of leading counterinsurgency operations independently by the end of 2005 and 2006; and (3) the extent to which funding provided by this appropriation and such transfers will result in reducing the level of the United States Armed Forces in Iraq in 6, 12, and 18 months after the date of such report and an estimate of the number of United States Armed Forces who will be needed in Iraq 6, 12, and 18 months after the date of such report:''.

SA 504. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, line 17, after ''1961:'' insert ''*Provided further*, That, notwithstanding any other provision of law, of the funds appropriated under this heading not less than $3,000,000 shall be transferred to the United Nations Population Fund to provide assistance to tsunami victims in Indonesia, the Maldives, and Sri Lanka to (1) provide and distribute equipment, including safe delivery kits and hygiene kits, medicines, and supplies, including soap and sanitary napkins, to ensure safe childbirth and emergency obstetric care, (2) reestablish maternal health services in areas where medical infrastructure and such services have been destroyed by the tsunami, (3) prevent and treat cases of violence against women and youth, (4) offer psychological support and counseling to women and youth, (5) promote the access of unaccompanied women and other vulnerable people to vital services, including access to water, sanitation facilities, food, and health care, and (6) make available supplies of contraceptives for the prevention of pregnancy and the spread of sexually transmitted diseases, including HIV/AIDS: *Provided further*, That nothing in the preceding provision may be construed to alter any existing statutory prohibitions against abortion set out in section 104(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b):''.

SA 505. Mr. WARNER submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . (a) The annex, located on the 200 block of 3rd Street Northwest in the District of Columbia, to the E. Barrett Prettyman Federal Building and United States Courthouse located at Constitution Avenue Northwest in the District of Columbia shall be known and designated as the ''William B. Bryant Annex.''

(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in section 1 shall be deemed to be a reference to the ''William B. Bryant Annex.''

SA 506. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

REDUCTION OF APPROPRIATIONS

SEC. 6047. Notwithstanding any other provision of this Act, the total amount appropriated under this Act may not exceed $62,122,000,000.

SA 507. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

REPORT ON IMPROVING AIR SAFETY OF MEMBERS OF THE UNITED STATES ARMED FORCES SERVING IN AFGHANISTAN

SEC. 6047. (a) Congress makes the following findings:

(1) The operation by the Department of Defense of aircraft between Europe and Afghanistan involves travel through an area of mountainous, hostile, and remote terrain along an air corridor that possesses minimal or no air safety capabilities.

(2) Recent aircraft crashes in Afghanistan involving members of the United States Armed Forces have claimed over 100 lives, and more than 40 other incidents have been documented in which maneuvers were required to avoid collisions.

(3) The United States Government has facilitated for several NATO allies the acquisition of important air safety improvement technologies that could be used to improve the safety of air routes between Europe and Afghanistan and within Afghanistan.

(b) Not later than September 1, 2005, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a comprehensive report containing a detailed plan, timeline, and budget for significantly improving the air safety of aircraft carrying members of the United States Armed Forces between Europe and Afghanistan and within Afghanistan.

SA 508. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 176, after line 22, insert the following:

For an additional amount for ''Economic Support Fund'', $2,000,000 for the Third Border Initiative to remain available until September 30, 2006: *Provided,* That the amount provided under this paragraph is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

On page 178, after line 16, insert the following:

For an additional amount for ''International Narcotics Control and Law Enforcement'', $40,530,000, to remain available until September 30, 2006, of which $18,400,000 shall be available for Latin America regional account for law enforcement and drug interdiction programs in 17 countries, $8,300,000 shall be available for continuance of the C–26 surveillance aircraft for aerial drug interdiction efforts in the Caribbean, $9,780,000 shall be available for Mexico border security, law enforcement and drug interdiction programs, and $4,500,000 shall be available for contributions to the Inter-American Committee Against Terrorism (CICTE) and the Inter-American Drug Abuse Control Commission (CICAD): *Provided,* That the amount provided under this paragraph is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

On page 179, after line 16, insert the following:

For an additional amount for ''Nonproliferation, Anti-Terrorism, Demining and Related Programs'', $5,000,000, to remain available until September 30, 2006, which shall be available for destruction of MANPADS in the Western Hemisphere: *Provided,* That the amount provided under this

paragraph is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 509. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, line 11, strike the comma and all that follows through ''goal'' on line 19.

SA 510. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

EVALUATION OF SUBCONTRACT PARTICIPATION BY SMALL BUSINESSES

SEC. 6047. (a) Section 8(d)(4)(G) of the Small Business Act (15 U.S.C. 637(d)(4)(G)) is amended by striking ''a bundled'' and inserting ''any''.

(b) Section 8(d)(10) of the Small Business Act (15 U.S.C. 637(d)(10)) is amended—

(1) by striking ''is authorized to'' and inserting ''shall'';

(2) in subparagraph (B), by striking ''and'' at the end;

(3) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(4) by adding at the end the following:

''(D) report the results of each evaluation under subparagraph (C) to the appropriate contracting officers.''.

(c) Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by redesignating paragraph (11) as paragraph (14); and

(2) by inserting after paragraph (10) the following:

''(11) CERTIFICATION.—A report submitted by the prime contractor pursuant to paragraph (6)(E) to determine the attainment of a subcontract utilization goal under any subcontracting plan entered into with a Federal agency under this subsection shall contain the name and signature of the president or chief executive officer of the contractor, certifying that the subcontracting data provided in the report are accurate and complete.

''(12) CENTRALIZED DATABASE.—The results of an evaluation under paragraph (10)(C) shall be included in a national centralized governmentwide database.

''(13) PAYMENTS PENDING REPORTS.—Each Federal agency having contracting authority shall ensure that the terms of each contract for goods and services includes a provision allowing the contracting officer of an agency to withhold an appropriate amount of payment with respect to a contract (depending on the size of the contract) until the date of receipt of complete, accurate, and timely subcontracting reports in accordance with paragraph (11).''.

(d) Section 8(d)(8) of the Small Business Act (15 U.S.C. 637(d)(8)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking ''The failure'' and inserting ''(A) The failure''; and

(3) by adding at the end the following:

''(B) A material breach described in this paragraph shall be referred for investigation to the Inspector General (or the equivalent) of the affected agency.''.

SA 511. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SMALL BUSINESS PARTICIPATION IN SUBCONTRACTING

SEC. 6047. (a) Section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended—

(1) in subparagraph (E), by striking ''and'' at the end;

(2) in subparagraph (F), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(G) certification that the offeror or bidder will acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from small business concerns in the amount and quality used in preparing the bid or proposal, unless such small business concerns are no longer in business or can no longer meet the quality, quantity, or delivery date.''.

(b) Section 16(f) of the Small Business Act (15 U.S.C. 645(f)) is amended by inserting ''or the reporting requirements of section 8(d)(6)(G)'' after ''section 7(j)(10)(I)''.

SA 512. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

DIRECT PAYMENTS TO SUBCONTRACTORS

SEC. 6047. (a) Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) amended by adding at the end the following:

''(12) TIMELY PAYMENT TO SMALL BUSINESS SUBCONTRACTORS.—

''(A) IN GENERAL.—Subject to subparagraph (B), the failure of a civilian agency prime contractor, as defined in subparagraph (D), to make a timely payment, as determined by the contract with the subcontractor, to a subcontractor that is a small business concern shall be a material breach of the contract with the Federal agency.

''(B) CONSIDERATION OF PERFORMANCE.—Before making a determination under subparagraph (A), the contracting officer shall consider all reasonable issues regarding the circumstances surrounding the failure to make the timely payment described in subparagraph (A).

''(C) WITHHOLDING OF PAYMENTS.—Not later than 30 days after the date on which a material breach under subparagraph (A) is determined by the contracting officer, the Federal agency may withhold any amounts due and owing the subcontractor from payments due to the prime contractor and pay such amounts directly to the subcontractor.

''(D) DEFINED TERM.—As used in this paragraph, the term 'civilian agency prime contractor' means a prime contractor that offers any combination of services or manufactured goods to Federal agencies other than the Department of Defense or agencies with responsibility for homeland security or national security.''.

SA 513. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 712. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

(a) CONGRESSIONAL FINDINGS AND REAFFIRMATION OF EXISTING POLICY.—

(1) FINDINGS.—Congress finds that—

(A) small business contracting in support of overseas activities of the Federal Government strengthens the trade posture of the United States in the global marketplace;

(B) small business contractors are a vital component of the civilian and defense industrial base, and they have provided outstanding value in support of the activities of the Federal Government domestically and internationally, especially in the international reconstruction, stabilization, and assistance activities in the Global War on Terror;

(C) maintaining a vital small business industrial base protects the Federal Government from higher costs and reduced innovation that accompany undue consolidation of Government contracts;

(D) Congress has a strong interest in preserving the competitive nature of the Government contracting marketplace, particularly with regard to performance of Federal contracts and subcontracts overseas;

(E) small business contractors suffer competitive harm and the Federal Government suffers a needless reduction in competition and a needless shrinkage of its industrial base when Federal agencies exempt contracts and subcontracts awarded for performance overseas from the application of the Small Business Act;

(F) small businesses desiring to support the troops deployed in the Global War on Terror and the reconstruction of Iraq and Afghanistan have faced needless hurdles to meaningful participation in Government contracts and subcontracts; and

(G) Congress has a strong interest in holding large prime contractors accountable for fulfilling their subcontracting plans on overseas assistance and reconstruction projects.

(2) REAFFIRMATION OF POLICY.—In light of the findings in subparagraph (A), Congress reaffirms its policy contained in sections 2 and 15 of the Small Business Act (15 U.S.C. 631, 644) and section 302 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631a) to promote international competitiveness of United States small businesses and to ensure that small business concerns are awarded a fair portion of all Federal prime contracts, and subcontracts, regardless of geographic area.

(b) COMPLIANCE.—Not later than 270 days after the date of enactment of this Act, the head of each Federal agency, office, and department having jurisdiction over acquisition regulations shall conduct regulatory reviews to ensure that such regulations require compliance with the Small Business Act in Federal prime contracts and subcontracts, regardless of the geographic place of award or performance, and shall promulgate any necessary conforming changes to such regulations.

(c) COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION.—The Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall be consulted for recommendations concerning regulatory reviews and changes required by this section.

(d) CONFLICTING PROVISIONS OF LAW.—In conducting any regulatory review or promulgating any changes required by this section, due note and recognition shall be given to the specific requirements and procedures of any other Federal statute or treaty which may exempt any Federal prime contract or subcontract from the application of the Small Business Act in whole or in part.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report containing their views on the compliance status of Federal agencies, offices, and departments in carrying out this section.

SA 514. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, insert the following:

SEC. 712. CONFLICT ZONE SMALL BUSINESS CONCERNS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

''(s) CONFLICT ZONE SMALL BUSINESS CONCERNS.—

''(1) CONFLICT ZONE SMALL BUSINESS SIZE STANDARDS.—

''(A) IN GENERAL.—The Administrator shall establish, by rule, regulation, or order, size standards for treatment of a business concern performing services in a qualified area as a small business concern for purposes of this Act.

''(B) TIMING.—The size standards established under subparagraph (A) shall become effective not later than 12 months after the date of enactment of this subsection.

''(C) CRITERIA.—The Administrator shall develop size standards under subparagraph (A) with the purpose of reducing the burdens on small business concerns, in connection with the need—

''(i) to provide security for business operations;

''(ii) to incur costs under any provision of Federal law which may require government contractors and subcontractors to provide particular benefits or to obtain particular types of insurance in order to operate in a qualified area; and

''(iii) to hire additional employees in order to successfully perform contracts or subcontracts in or near a zone of military conflict.

''(2) PROVISIONAL RULE.—Notwithstanding any other provision of law, until the rule, regulation or order established under paragraph (1)(A) becomes effective, the Administrator may not consider, in determining whether a business concern performing services in a qualified area qualifies as a small business concern for purposes of this Act—

''(A) receipts received under a qualified contract or subcontract; or

''(B) employees hired solely for the purpose of performing services in a qualified area pursuant to a qualified contract or subcontract.

''(3) ADDITIONAL DEFINITIONS.—

''(A) QUALIFIED AREA.—In this subsection, the term 'qualified area' means—

''(i) Iraq;

''(ii) Afghanistan; and

''(iii) any other country, area, or territory outside of the United States, its territories, and possessions, as may be designated by the Administrator in consultation with the Secretary of Defense, the Secretary of Homeland Security, or the Secretary of State, as appropriate, where contracts or subcontracts are performed in support of the Global War on Terror, United States military operations, or related reconstruction, stabilization, and assistance activities.

''(B) QUALIFIED CONTRACT OR SUBCONTRACT.—In this subsection, the term 'qualified contract or subcontract' means any contract, portion of a contract, subcontract, or portion of a subcontract awarded by an agency or instrumentality of the United States, or using funds made available through an appropriations Act, requiring the business concern to perform services in a qualified area.

''(C) SERVICES.—In this subsection, the term 'services' includes sales, marketing, installation, translation, security, and other similar services performed in a qualified area under a qualified contract or subcontract.''.

SA 515. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, after line 3, insert the following:

CONTRACT CONSOLIDATION

SEC. 6047. (a) Section 3(o) of the Small Business Act (15 U.S.C. 632(o)) is amended to read as follows:cc

''(o) DEFINITIONS RELATING TO CONSOLIDATION OF CONTRACT REQUIREMENTS.—In this Act—

''(1) the terms 'consolidation of contract requirements' and 'consolidation', with respect to contract requirements of a military department, defense agency, Department of Defense Field Activity, or any other Federal department or agency having contracting authority, mean a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy 2 or more requirements of that department, agency, or activity for goods or services that—

''(A) have previously been provided to or performed for that department, agency, or activity under 2 or more separate contracts that are smaller in cost than the total cost of the contract for which the offers are solicited; or

''(B) are of a type capable of being provided or performed by a small business concern for that department, agency, or activity under 2 or more separate contracts that are smaller in cost than the total cost of the contract for which the offers are solicited;

''(2) the term 'multiple award contract' means—

''(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of title 10, United States Code;

''(B) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

''(C) any other indeterminate delivery, indeterminate quantity contract that is entered into by the head of a Federal agency with 2 or more sources pursuant to the same solicitation; and

''(3) the term 'senior procurement executive' means—

''(A) with respect to a military department, the official designated under section 16(k) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) as the senior procurement executive for the military department;

''(B) with respect to a defense agency or a Department of Defense Field Activity, the official so designated for the Department of Defense; and

''(C) with respect to a Federal department or agency other than those referred to in

subparagraphs (A) and (B), the official so designated by that department or agency.''.

(b) Section 15(e) of the Small Business Act (15 U.S.C. 644(e)) is amended—

(1) in paragraph (2)—

(A) by striking ''RESEARCH.—

(A) IN GENERAL.—Before'' and inserting ''RESEARCH.—Before''; and

(B) by striking subparagraphs (B) and (C); and

(2) by striking paragraph (3) and inserting the following:

''(3) LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.—

''(A) CERTAIN DEFENSE CONTRACT REQUIREMENTS.—An official of a military department, defense agency, or Department of Defense Field Activity shall not execute an acquisition strategy that includes a consolidation of contract requirements of the military department, agency, or activity with a total value in excess of $5,000,000, unless the senior procurement executive first—

''(i) conducts market research;

''(ii) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

''(iii) determines that the consolidation is necessary and justified.

''(B) CERTAIN CIVILIAN AGENCY CONTRACT REQUIREMENTS.—The head of a Federal agency not covered under subparagraph (A) that has contracting authority shall not execute an acquisition strategy that includes a consolidation of contract requirements of the agency with a total value in excess of $2,000,000, unless the senior procurement executive of the agency first—

''(i) conducts market research;

''(ii) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements; and

''(iii) determines that the consolidation is necessary and justified.

''(C) ADDITIONAL REQUIREMENTS FOR HIGHER VALUE CONSOLIDATED CONTRACTS.—In addition to meeting the requirements under subparagraph (A) or (B), a procurement strategy by a civilian agency that includes a consolidated contract with a total value in excess of $5,000,000, or by a defense agency that includes a consolidated contract with a total value in excess of $7,000,000 shall include—

''(i) an assessment of the specific impediments to participation by small business concerns as prime contractors that will result from the consolidation;

''(ii) actions designed to maximize small business participation as prime contractors, including provisions that encourage small business teaming for the consolidated requirement;

''(iii) actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements; and

''(iv) the identification of the alternative strategies that would reduce or minimize the scope of the consolidation and the rationale for not choosing those alternatives.

''(D) NECESSARY AND JUSTIFIED.—A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for purposes of subparagraph (A), (B), or (C), if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under clause (ii) of any of those subparagraphs, as applicable. However, savings in administrative or personnel costs alone do not constitute, for such purpose, a sufficient justification for a consolidation of contract requirements in a procurement, unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

''(E) BENEFITS.—Benefits considered for purposes of this paragraph may include cost and, regardless of whether quantifiable in dollar amounts—

''(i) quality;

''(ii) acquisition cycle;

''(iii) terms and conditions; and

''(iv) any other benefit directly related to national security or homeland defense.''.

(c) Section 15(p)(4)(B) of the Small Business Act (15 U.S.C. 644(p)(4)(B)) is amended—

(1) in clause (i), by striking ''and'' at the end;

(2) in clause (ii), by striking the period at the end and inserting the following: ''; and''; and

(3) by adding at the end the following:

''(iii) a description of best practices for maximizing small business prime and subcontracting opportunities.''.

(d) Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is amended—

(1) in the subsection heading, by striking ''BUNDLED CONTRACTS'' and inserting ''CONSOLIDATED CONTRACTS'';

(2) in paragraph (1), in the paragraph heading, by striking ''BUNDLED CONTRACT'' and inserting ''CONSOLIDATED CONTRACT'';

(3) in paragraph (4), in the paragraph heading, by striking ''CONTRACT BUNDLING'' and inserting ''CONTRACT CONSOLIDATION'';

(4) by striking ''bundled contracts'' each place that term appears and inserting ''consolidated contracts'';

(5) by striking ''bundled contract'' each place that term appears and inserting ''consolidated contract'';

(6) by striking ''bundling of contract requirements'' each place that term appears and inserting ''consolidation of contract requirements'';

(7) in paragraph (4)(B)(ii), by striking ''previously bundled'' and inserting ''previously consolidated'';

(8) in paragraph (4)(B)(ii)(I), by striking ''were bundled'' and inserting ''were consolidated'';

(9) in paragraph (4)(B)(ii)(II)(bb), by striking ''bundling the contract requirements'' and inserting ''the consolidation of contract requirements''; and

(10) in paragraph (4)(B)(ii)(II)(cc), by striking ''bundled status'' and inserting ''consolidated status''.

SA 516. Mr. BYRD submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 187, after line 4, insert the following:

REDUCTION IN FUNDING FOR DIPLOMATIC AND CONSULAR PROGRAMS

The amount for ''Diplomatic and Consular Programs'' under chapter 2 of title II shall be $357,700,000.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALARIES AND EXPENSES

For an additional amount for ''Salaries and Expenses'', $389,613,000, of which $128,000,000, to remain available until September 30, 2006, shall be available for the enforcement of immigration and customs laws, detention and removal, and investigations, including the hiring of immigration investigators, enforcement agents, and deportation officers, and the provision of detention bed space, and of which the Assistant Secretary for Immigration and Customs Enforcement shall transfer (1) $179,745,000, to Customs and Border Protection, to remain available until September 30, 2006, for ''SALARIES AND EXPENSES'', for the hiring of Border Patrol agents and related mission support expenses and continued operation of unmanned aerial vehicles along the Southwest Border; (2) $67,438,000, to Customs and Border Protection, to remain available until expended, for ''CONSTRUCTION''; (3) $10,471,000, to the Federal Law Enforcement Training Center, to remain available until September 30, 2006, for ''SALARIES AND EXPENSES''; and (4) $3,959,000, to the Federal Law Enforcement Training Center, to remain available until expended, for ''ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES'', for the provision of training at the Border Patrol Academy.

SA 517. Mr. CORZINE (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 183, after line 23, insert the following:

DAFUR ACCOUNTABILITY

SEC. 2105. (a) It is the sense of the Senate that—

(1) the atrocities unfolding in Darfur, Sudan, have been and continue to be genocide;

(2) the United States should immediately seek passage at the United Nations Security Council of a resolution that—

(A) imposes additional sanctions or additional measures against the Government of Sudan, including sanctions that will affect the petroleum sector in Sudan, individual members of the Government of Sudan, and entities controlled or owned by officials of the Government of Sudan or the National Congress Party in Sudan, that will remain in effect until such time as the Government of Sudan fully complies with all relevant United Nations Security Council resolutions;

(B) establishes a military no-fly zone in Darfur and calls on the Government of Sudan to immediately withdraw all military aircraft from the region;

(C) urges member states to accelerate assistance to the African Union force in Darfur, sufficient to achieve the expanded mandate described in paragraph (5);

(D) calls on the Government of Sudan to cooperate with, and allow unrestricted movement in Darfur by, the African Union force,

the United Nations Mission in Sudan (UNMIS), international humanitarian organizations, and United Nations monitors;

(E) extends the embargo of military equipment established by paragraphs 7 through 9 of United Nations Security Council Resolution 1556 and expanded by Security Council Resolution 1591 to include a total prohibition of sale or supply to the Government of Sudan; and

(F) expands the mandate of UNMIS to include the protection of civilians throughout Sudan, including Darfur, and increases the number of UNMIS personnel to achieve such mandate;

(3) the United States should not provide assistance to the Government of Sudan, other than assistance necessary for the implementation of the Sudan North-South Peace Agreement, the support of the southern regional government in Sudan, or for humanitarian purposes in Sudan, unless the President certifies and reports to Congress that the Government of Sudan has fully complied with all relevant United Nations Security Council resolutions and the conditions established by the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018);

(4) the President should work with international organizations, including the North Atlantic Treaty Organization (NATO), the United Nations, and the African Union to undertake action as soon as practicable to eliminate the ability of the Government of Sudan to engage in aerial bombardment of civilians in Darfur and establish mechanisms for the enforcement of a no-fly zone in Darfur;

(5) the African Union should extend its mandate in Darfur to include the protection of civilians and proactive efforts to prevent violence;

(6) the President should accelerate assistance to the African Union in Darfur and discussions with the African Union, the European Union, NATO, and other supporters of the African Union force on the needs of the African Union force, including assistance for housing, transportation, communications, equipment, technical assistance such as training and command and control assistance, and intelligence;

(7) the President should appoint a Presidential Envoy for Sudan to support peace, security and stability in Darfur and seek a comprehensive peace throughout Sudan;

(8) United States officials, at the highest levels, should raise the issue of Darfur in bilateral meetings with officials from other members of the United Nations Security Council and other relevant countries, with the aim of passing a United Nations Security Council resolution described in paragraph (2) and mobilizing maximum support for political, financial, and military efforts to stop the genocide in Darfur; and

(9) the United States should actively participate in the UN Committee and the Panel of Experts established pursuant to Security Council Resolution 1591, and work to support the Secretary-General and the United Nations High Commissioner for Human Rights in their efforts to increase the number and deployment rate of human rights monitors to Darfur.

(b)(1) At such time as the United States has access to any of the names of those named by the UN Commission of Inquiry or those designated by the UN Committee the President shall—

(A) submit to the appropriate congressional committees a report listing such names;

(B) determine whether the individuals named by the UN Commission of Inquiry or designated by the UN Committee have committed the acts for which they were named or designated;

(C) except as described under paragraph (2), take such action as may be necessary to immediately freeze the funds and other assets belonging to such individuals, their family members, and any associates of such individuals to whom assets or property of such individuals were transferred on or after July 1, 2002, including requiring that any United States financial institution holding such funds and assets promptly report those funds and assets to the Office of Foreign Assets Control; and

(D) except as described under paragraph (2), deny visas and entry to such individuals, their family members, and anyone the President determines has been, is, or may be planning, carrying out, responsible for, or otherwise involved in crimes against humanity, war crimes, or genocide in Darfur, Sudan.

(2) The President may elect not to take action described in paragraphs (1)(C) and (1)(D) if the President submits to the appropriate congressional committees, a report—

(A) naming the individual named by the UN Commission of Inquiry or designated by the UN Committee with respect to whom the President has made such election, on behalf of the individual or the individual's family member or associate; and

(B) describing the reasons for such election, and including the determination described in paragraph (1)(B).

(3) Not later than 30 days after United States has access to any of the names of those named by the UN Commission of Inquiry or those designated by the UN Committee, the President shall submit to the appropriate congressional committees notification of the sanctions imposed under paragraphs (1)(C) and (1)(D) and the individuals affected, or the report described in paragraph (2).

(4) Not later than 30 days prior to waiving the sanctions provisions of any other Act with regard to Sudan, the President shall submit to the appropriate congressional committees a report describing the waiver and the reasons for such waiver.

(c)(1) The Secretary of State, in conjunction with the Secretary of Defense, shall report to the appropriate congressional committees on efforts to deploy an African Union force in Darfur, the capacity of such force to stabilize Darfur and protect civilians, the needs of such force to achieve such mission including housing, transportation, communications, equipment, technical assistance, including training and command and control, and intelligence, and the status of United States and other assistance to the African Union force.

(2)(A) The report described in paragraph (1) shall be submitted every 90 days during the 1-year period beginning on the date of the enactment of this Act, or until such time as the President certifies that the situation in Darfur is stable and that civilians are no longer in danger and that the African Union is no longer needed to prevent a resumption of violence and attacks against civilians.

(B) After such 1-year period, and if the President has not made the certification described in subparagraph (A), the report described in paragraph (1) shall be included in the report required under section 8(b) of the Sudan Peace Act (50 U.S.C. 1701 note), as amended by section 5(b) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108–497; 118 Stat. 4018).

(d) In this section:

(1) The term ''appropriate congressional committees'' means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

(2) The term ''Government of Sudan'' means the National Congress Party-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this title.

(3) The term ''member states'' means the member states of the United Nations.

(4) The term ''Sudan North-South Peace Agreement'' means the comprehensive peace agreement signed by the Government of Sudan and the Sudan People's Liberation Army/Movement on January 9, 2005.

(5) The term ''those named by the UN Commission of Inquiry'' means those individuals whose names appear in the sealed file delivered to the Secretary-General of the United Nations by the International Commission of Inquiry on Darfur to the United Nations Security Council.

(6) The term ''UN Committee'' means the Committee of the Security Council established in United Nations Security Council Resolution 1591 (29 March 2005); paragraph 3.

SA 518. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. . SILICON CARBIDE ARMOR INITIATIVE.

Of amounts available to the Department of Defense in this Act, $5,000,000 may be used for the purpose of funding a silicon carbide armor initiative to meet the critical needs for silicon carbide powders used in the production of ceramic armor plates for military vehicles.

SA 519. Mr. BUNNING submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

SEC. . RAPID WALL BREACHING KITS.

Of amounts available to the Department of Defense in this Act, $5,000,000 may be used for procurement of Rapid Wall Breaching Kits.

SA 520. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30,

2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 169, between lines 8 and 9, insert the following:

UP-ARMORED HIGH MOBILITY MULTIPURPOSE WHEELED VEHICLES

SEC. 1122. (a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount appropriated by this chapter under the heading ''OTHER PROCUREMENT, ARMY'' is hereby increased by $213,000,000, with the amount of such increase designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(b) AVAILABILITY OF FUNDS.—Of the amount appropriated or otherwise made available by this chapter under the heading ''OTHER PROCUREMENT, ARMY'', as increased by subsection (a), $213,000,000 shall be available for the procurement of Up-Armored High Mobility Multipurpose Wheeled Vehicles (UAHMMWVs).

(c) REPORTS.—(1) Not later 60 days after the date of the enactment of this Act, and every 60 days thereafter until the termination of Operation Iraqi Freedom, the Secretary of Defense shall submit to the congressional defense committees a report setting forth the current requirements of the Armed Forces for Up-Armored High Mobility Multipurpose Wheeled Vehicles.

(2) Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report setting forth the most effective and efficient options available to the Department of Defense for transporting Up Armored High Mobility Multipurpose Wheeled Vehicles to Iraq and Afghanistan.

SA 521. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

APPLICATION PROCESSING AND ENFORCEMENT FEES

SEC. 6047. Section 286(s)(6) of the Immigration and Nationality Act (8 U.S.C. 1356(s)(6)) is amended in the second sentence by inserting ''and section 212(a)(5)(A)'' before the period at the end.

SA 522. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 231, between lines 3 and 4, insert the following:

REPEAL OF CERTAIN VISA REVOCATION PROVISIONS

SEC. 6047. (a) Section 5304 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) is repealed.

(b) The Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall be applied and administered as if such section 5304 had not been enacted.

(c) Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: ''There shall be no means of administrative or judicial review of a revocation under this subsection, and no court or other person otherwise shall have jurisdiction to consider any claim challenging the validity of such a revocation.''.

(d) Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking ''United States is'' and inserting the following: ''United States, or whose nonimmigrant visa (or other documentation authorizing admission into the United States) has been revoked under section 221(i), is''.

(e) The amendments made by subsections (c) and (d) shall take effect on the date of the enactment of this Act and shall apply to revocations under section 221(i) of the Immigration and Nationality Act made before, on, or after such date.

SA 523. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REQUIRING CERTAIN FEDERAL SERVICE CONTRACTORS TO PARTICIPATE IN PILOT PROGRAM.

Section 402(e)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note) is amended by adding at the end the following:

''(C) CERTAIN FEDERAL SERVICE CONTRACTORS.—The following entities shall elect to participate in a pilot program and shall comply with the terms and conditions of such an election:

''(i) A contractor who has entered into a contract with the Department of Defense to which section 2(b)(1) of the Service Contract Act of 1965 (41 U.S.C. 351(b)(1)) applies, and any subcontractor under such contract.

''(ii) A contractor who has entered into a contract with the Department of Defense that is exempted from the application of such Act by section 6 of such Act (41 U.S.C. 356), and any subcontractor under such contract.''.

SA 524. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 197, between lines 13 and 14, insert the following:

COOPERATIVE STATE RESEARCH, EDUCATION AND EXTENSION

For an additional amount for grants to States for the prevention, detection, and treatment of Asian soybean rust, $2,340,000, to remain available until expended: *Provided*, That the funds shall be made available to land grant universities in southern States where Asian soybean rust has been detected as of the date of enactment of this Act, as determined by the Secretary of Agriculture: *Provided further*, That the funds shall be targeted to States with harvested soybean acreage in crop year 2004 of at least 1,600,000 acres: *Provided further*, That to be eligible, a State land grant university shall have developed a plan for the prevention, detection, and treatment of Asian soybean rust: *Provided further*, That the plan shall include, at a minimum, the development of informational materials, including the use of a website, training sessions for producers, crop monitoring, and the development of a regional network: *Provided further*, That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 525. Mr. PRYOR submitted an amendment intended to be proposed by him to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 197, between lines 13 and 14, insert the following:

AGRICULTURAL RESEARCH SERVICE

For an additional amount for grants to States for the prevention, detection, and treatment of Asian soybean rust, $2,340,000, to remain available until expended: *Provided*, That the funds shall be made available to the cooperative extension service in southern States where Asian soybean rust has been

detected as of the date of enactment of this Act, as determined by the Secretary of Agriculture: *Provided further,* That the funds shall be targeted to States with harvested soybean acreage in crop year 2004 of at least 1,600,000 acres: *Provided further,* That to be eligible, a State shall have developed a plan for the prevention, detection, and treatment of Asian soybean rust: *Provided further,* That the plan shall include, at a minimum, the development of informational materials, including the use of a website, training sessions for producers, crop monitoring, and the development of a regional network: *Provided further,* That the amount provided under this heading is designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

SA 526. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, lines 11 through 14, strike ''at least 575 hours or 100 work days, whichever is less, during any 12 consecutive months during the 18-month period ending on'' and insert ''the previous 3 years, for at least 575 hours or 100 work days per year, before''.

SA 527. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 1268, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 209, lines 15 and 16, strike ''benefits'' and insert ''value''.

SA 528. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 179, line 24, strike ''$40,000,000'' and insert ''$20,000,000''.

On page 231, between lines 3 and 4, insert the following:

SEC. 6047. FLOODED CROP AND GRAZING LAND.

(a) IN GENERAL.—The Secretary of Agriculture shall compensate eligible owners of flooded crop and grazing land in—

(1) the Devils Lake basin; and

(2) the McHugh, Lake Laretta, and Rose Lake closed drainage areas of the State of North Dakota.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive compensation under this section, an owner shall own land described in subsection (a) that, during the 2 crop years preceding receipt of compensation, was rendered incapable of use for the production of an agricultural commodity or for grazing purposes (in a manner consistent with the historical use of the land) as the result of flooding, as determined by the Secretary.

(2) INCLUSIONS.—Land described in paragraph (1) shall include—

(A) land that has been flooded;

(B) land that has been rendered inaccessible due to flooding; and

(C) a reasonable buffer strip adjoining the flooded land, as determined by the Secretary.

(3) ADMINISTRATION.—The Secretary may establish—

(A) reasonable minimum acreage levels for individual parcels of land for which owners may receive compensation under this section; and

(B) the location and area of adjoining flooded land for which owners may receive compensation under this section.

(c) SIGN-UP.—The Secretary shall establish a sign-up program for eligible owners to apply for compensation from the Secretary under this section.

(d) COMPENSATION PAYMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the rate of an annual compensation payment under this section shall be equal to 90 percent of the average annual per acre rental payment rate (at the time of entry into the contract) for comparable crop or grazing land that has not been flooded and remains in production in the county where the flooded land is located, as determined by the Secretary.

(2) REDUCTION.—An annual compensation payment under this section shall be reduced by the amount of any conservation program rental payments or Federal agricultural commodity program payments received by the owner for the land during any crop year for which compensation is received under this section.

(3) EXCLUSION.—During any year in which an owner receives compensation for flooded land under this section, the owner shall not be eligible to participate in or receive benefits for the flooded land under—

(A) the Federal crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.);

(B) the noninsured crop assistance program established under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); or

(C) any Federal agricultural crop disaster assistance program.

(e) RELATIONSHIP TO AGRICULTURAL COMMODITY PROGRAMS.—The Secretary, by regulation, shall provide for the preservation of cropland base, allotment history, and payment yields applicable to land described in subsection (a) that was rendered incapable of use for the production of an agricultural commodity or for grazing purposes as the result of flooding.

(f) USE OF LAND.—

(1) IN GENERAL.—An owner that receives compensation under this section for flooded land shall take such actions as are necessary to not degrade any wildlife habitat on the land that has naturally developed as a result of the flooding.

(2) RECREATIONAL ACTIVITIES.—To encourage owners that receive compensation for flooded land to allow public access to and use of the land for recreational activities, as determined by the Secretary, the Secretary may—

(A) offer an eligible owner additional compensation; and

(B) provide compensation for additional acreage under this section.

(g) FUNDING.—

(1) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, to carry out this section $20,000,000 for fiscal year 2005, to remain available until expended: *Provided,* That the amounts made available by the transfer of funds in or pursuant to this section are designated as an emergency requirement pursuant to section 402 of the conference report to accompany S. Con. Res. 95 (108th Congress).

(2) PRO-RATED PAYMENTS.—In a case in which the amount made available under paragraph (1) for a fiscal year is insufficient to compensate all eligible owners under this section, the Secretary shall pro-rate payments for that fiscal year on a per acre basis.

SA 529. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

In the language proposed to be striken strike line 6 through 19 and insert the following:

On page 214, strike lines 6 through 19 and insert the following:

SEC. 6023.(a) Not later than September 30, 2005, the Department of Energy and the Small Business Administration shall enter into a memorandum of understanding setting forth an appropriate methodology for measuring the achievement of the Department of Energy with respect to awarding contracts to small businesses.

(b) In recognition of the historical and successful practice by the Department of Energy of operating many of its facilities and sites through management and operating contractors who subcontract significant amounts of work to small businesses, the methodology set forth in the memorandum of understanding entered into under subsection (a) shall, at a minimum, include—

(1) a method of counting the achievement of the Department of Energy in awarding—

(A) prime contracts; and

(B) subcontracts to small businesses awarded by Department of Energy management and operating, management and integration, and other facility management prime contractors;

(2) uniform criteria that could be used by prime contractors described under paragraph (1)(B) when measuring the value of subcontracts awarded to small businesses; and

(3) prime contract provisions that could impose certain requirements on prime contractors described under paragraph (1)(B), such as prompt payment requirements, with respect to the administration of subcontracts awarded to small businesses that, when such provisions were included within a prime contract, the Department of Energy could count the subcontracts awarded under such prime contract toward its small business contracting goals established pursuant to Section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

SA 530. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 214, strike lines 6 through 19 and insert the following:

SEC. 6023.(a) Not later than September 30, 2005, the Department of Energy and the Small Business Administration shall enter into a memorandum of understanding setting forth an appropriate methodology for measuring the achievement of the Department of Energy with respect to awarding contracts to small businesses.

(b) In recognition of the historical and successful practice by the Department of Energy of operating many of its facilities and sites through management and operating contractors who subcontract significant amounts of work to small businesses, the methodology set forth in the memorandum of understanding entered into under subsection (a) shall, at a minimum, include—

(1) a method of counting the achievement of the Department of Energy in awarding—

(A) prime contracts; and

(B) subcontracts to small businesses awarded by Department of Energy management and operating, management and integration, and other facility management prime contractors;

(2) uniform criteria that could be used by prime contractors described under paragraph (1)(B) when measuring the value of subcontracts awarded to small businesses; and

(3) prime contract provisions that could impose certain requirements on prime contractors described under paragraph (1)(B), such as prompt payment requirements, with respect to the administration of subcontracts awarded to small businesses that, when such provisions were included within a prime contract, the Department of Energy could count the subcontracts awarded under such prime contract toward its small business contracting goals established pursuant to Section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

SA 531. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, line 16, strike ''(e)(2)'' and all that follows through line 22, and insert the following: ''(e)(2); or

''(ii) is convicted of a felony or misdemeanor committed in the United States.''.

SA 532. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, strike line 24 and all that follows through page 21, line 11, and insert the following:

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) 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 entity designated under paragraph (2), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

SA 533. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, line 2, strike ''(e)(2)'' and all that follows through line 8, and insert the following: ''(e)(2); or

''(II) is convicted of a felony or misdemeanor committed in the United States.''.

SA 534. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 13, strike line 13 and all that follows through page 15, line 24, and insert the following:

(i) QUALIFYING EMPLOYMENT.—The alien has performed at least 5 years of agricultural employment in the United States, for at least 575 hours or 100 work days per year, during the 6-year period beginning on the date of enactment of this Act.

(ii) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of enactment of this Act.

(iii) PROOF.—In meeting the requirement under clause (i), an alien may submit the record of employment described in subsection (a)(5) or such documentation as may be submitted under subsection (d)(3).

(iv) DISABILITY.—In determining whether an alien has met the requirement under clause (i), the Secretary.

SA 535. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 375 proposed by Mr. CRAIG (for himself and Mr. KENNEDY) to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, line 12, strike ''(e)(2)'' and all that follows through line 18, and insert the following: ''(e)(2); or

''(II) is convicted of a felony or misdemeanor committed in the United States.''.

SA 536. Mr. COCHRAN (for Mr. BOND) proposed an amendment to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

Insert the following (and renumber if appropriate) on page 231, after line 3:

''SEC. 6047. (a) Section 222 of title II of Division I of Public Law 108–447 is deleted; and

(b) Section 203(c)(1) of the National Housing Act (12 U.S.C. 1709(c)) is amended by—

(1) striking ''subsections'' and inserting ''subsection'', and

(2) striking ''or (k)'' each place that it appears.''.

SA 537. Mr. REID (for Mr. BIDEN (for himself, Mr. LAUTENBERG, and Mrs. BOXER)) submitted an amendment intended to be proposed by Mr. REID to the bill H.R. 1268, Making emergency supplemental appropriations for the fiscal year ending September 30, 2005, to establish and rapidly implement regulations for State driver's license and identification document security standards, to prevent terrorists from abusing the asylum laws of the United States, to unify terrorism-related grounds for inadmissibility and removal, to ensure expeditious construction of the San Diego border fence, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____. (a) PROVISION OF FUNDS FOR SECURITY AND STABILIZATION OF IRAQ AND AFGHANISTAN AND FOR OTHER DEFENSE-RELATED ACTIVITIES THROUGH PARTIAL SUSPENSION OF REDUCTION IN HIGHEST INCOME TAX RATE FOR INDIVIDUAL TAXPAYERS.—The table contained in paragraph (2) of section 1(i) of the Internal Revenue Code of 1986 (relating to (relating to reductions in rates after June 30, 2001) is amended to read as follows:

"In the case of taxable years beginning during calendar year:	The corresponding percentages shall be substituted for the following percentages:			
	28%	31%	36%	39.6%
2001	27.5%	30.5%	35.5%	39.1%
2002	27.0%	30.0%	35.0%	38.6%
2003, 2004, and 2005	25.0%	28.0%	33.0%	35.0%
2006 and thereafter	25.0%	28.0%	33.0%	38.6%''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

(c) APPLICATION OF EGTRRA SUNSET TO THIS SECTION.—The amendment made by this section shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 to the same extent and in the same manner as the provision of such Act to which such amendment relates.

NOTICES OF HEARING/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources on Tuesday, April 26, at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony regarding the status of the Department of Energy's Nuclear Power 2010 program.

For further information, please contact Clint Williamson at 202–224–7556 or David Marks at 202–228–6195.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. Thomas. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Thursday, April 28, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills: S. 242, a bill to establish four memorials to the Space Shuttle Columbia in the State of Texas; S. 262, a bill to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California; S. 336, a bill to direct the Secretary of the Interior to carry out a study of the feasibility of designating the Captain John Smith Chesapeake National Historic Watertrail as a national historic trail; S. 670, a bill to authorize the Secretary of the Interior to conduct a special resource study of sites associated with the life of Cesar Estrada Chavez and the farm labor movement; S. 777, a bill to designate Catoctin Mountain Park in the State of Maryland as the ''Catoctin Mountain National Recreation Area'', and for other purposes; and H.R. 126, a bill to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364 Dirksen Senate Office Building, Washington, D.C. 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Brian Carlstrom at (202) 224–6293.

AUTHORIZING AN ANNUAL APPROPRIATION FOR MENTAL HEALTH COURTS THROUGH FISCAL YEAR 2011

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 289 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 289) to authorize an annual appropriation of $10,000,000 for mental health courts through fiscal year 2011.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is going to pass S. 289, a bill to reauthorize the Mental Health Court Program and provide $10 million in grant funding annually for mental health courts through fiscal year 2011. I am the lead Democratic sponsor of this bill, and cosponsored similar legislation in the last Congress.

Senator DEWINE and I have worked together on a number of mental health issues. Last year, we worked together to enact the Mentally Ill Offender Treatment and Crime Reduction Act, which authorizes $50 million annually for a range of State and local projects designed to reduce the number of crimes committed by mentally ill individuals. We are now working together to obtain appropriations to fund the new law.

As former prosecutors, Senator DEWINE and I both realize the tremendous impact of mental illness on our criminal justice system. We need to stop the ''revolving door'' whereby mentally ill offenders cycle in and out of the criminal justice system for relatively minor offenses, taking up the time and resources of law enforcement officers, judges, and the community as a whole. My State of Vermont has benefited from funding under the Mental Health Court Program, and I know firsthand the good that mental health courts can do.

I hope the House will take up this bipartisan and uncontroversial legislation promptly and ensure that Federal support for mental health courts will continue.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the RECORD.

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

The bill (S. 289) was read the third time and passed, as follows:

S. 289

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

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a)(20) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(20)) is amended by striking ''fiscal years 2001 through 2004'' and inserting ''fiscal years 2006 through 2011''.

ORDERS FOR TUESDAY, APRIL 19, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, April 19. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 1268, the Iraq-Afghanistan supplemental appropriations bill; provided that the time until 11:45 be divided with Senator CHAMBLISS in control of one-half of the time and the other half divided equally between Senators CRAIG and KENNEDY; provided further that at 11:45 a.m. the Senate proceed to the vote on the motion to invoke cloture on the Chambliss amendment, as provided under the previous order.

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

Mr. FRIST. 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. FRIST. Mr. President, tomorrow, the Senate will resume consideration of the Iraq-Afghanistan supplemental appropriations bill. At 11:45 a.m., the Senate will proceed to the cloture vote on the Chambliss immigration amendment, to be followed by a vote on invoking cloture on the Craig AgJOBS amendment. Therefore, Senators should expect two cloture votes beginning at 11:45 tomorrow morning.

If cloture is not invoked on either of those amendments, the Chambliss amendment or the Craig amendment, the Senate will continue working through additional amendments to the bill. Under a previous order, if the Senate is not in a postcloture period, we will proceed to the cloture vote on the Mikulski language, and that is the Mikulski immigration amendment, at 4:30 tomorrow afternoon. After we dispose of the Mikulski amendment, the Senate will proceed to the cloture vote on the overall bill, the underlying bill.

I also announce to my colleagues that, as they can see, we will have a very busy day over the course of tomorrow. Rollcall votes are likely to occur throughout the day, beginning at 11:45 a.m. As a reminder, there is an 11 a.m. filing deadline for second-degree amendments to the Chambliss and Craig amendments. The filing deadline for second-degree amendments to the Mikulski amendment and the bill itself will be determined by the outcome of those two earlier cloture votes tomorrow morning, and Senators will be notified once those deadlines can be established.

Once again, I hope the Senate will invoke cloture on the bill so that the Senate can complete this underlying, important, critical emergency funding bill, an emergency funding bill for our troops in Afghanistan, in Iraq, as well as tsunami relief.

Over the last week, week and a half, I have encouraged and will continue to encourage my colleagues not to offer extraneous amendments. I know people see this as a bill that is going to ultimately pass this floor, and it is very tempting to throw your outbox on this bill.

To be honest, I have been disappointed in the number of extraneous, unrelated amendments that have been brought forward. We have 20 pending amendments to the supplemental appropriations bill. In addition to that, I have on each of these pages about 30 amendments, 4 pages of amendments Senators have brought forward.

I appeal to my colleagues: Let us stay on this bill, the supplemental emergency spending bill. We are at war. We have troops who need this money now. All I can do is continue to appeal. We will have these immigration amendments tomorrow. We will have the opportunity to vote on these three amendments. That process will begin with the cloture votes at 11:45 in the morning.

Once again, use restraint in bringing amendments forward, unless they are directed at supplemental emergency spending for our troops overseas or tsunami relief.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:41 p.m., adjourned until Tuesday, April 19, 2005, at 9:45 a.m.