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# Senate

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

## PRAYER

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

Let us pray.

O God our Father, we wait for some word from You that will set our lives on new paths. Give us the power to live as Your loyal children. Lift our hands and hearts with the inspiration of Your divine presence. Fill us with Your compassion so that we will be willing to bear the burdens of others.

Today, use the Members of this body for Your purposes. Help them to treat others with reverence, respect, and kindness. As they seek to understand each other, give them a unity of mind and purpose. In these challenging times, make them Your partners in rescuing the perishing and caring for the dying.

We pray in Your sovereign Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

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

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, September 20, 2006.*

*To the Senate:*

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

TED STEVENS,
*President pro tempore.*

Mr. BROWNBACK thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

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

## SCHEDULE

Mr. FRIST. Mr. President, following the 30-minute morning business period today, we will begin a 1-hour block of time related to the secure fence bill. When that 1 hour of debate is concluded, we will proceed to the vote on invoking cloture on the motion to proceed to H.R. 6061, the Secure Fence Act of 2006. That vote is likely to begin shortly after 11 a.m. this morning. It is my hope that cloture will be invoked. Once cloture is invoked, we would like to reach an agreement to proceed to the bill as quickly as possible.

I remind everyone that we will be finishing our business at the conclusion of next week; therefore, it will require everyone's cooperation in order to finish all of the must-do items before we depart.

## TERRORIST SURVEILLANCE

Mr. FRIST. Mr. President, many Members have asked where we are with regard to the terrorist military tribunal and the terrorist surveillance legislation. With regard to the terrorist tribunal, as I have said repeatedly and restated yesterday, the legislation that leaves this Senate floor absolutely must achieve two goals: first, preserve the intelligence programs that we know have saved American lives; second, protect classified information from terrorists who could exploit it to plan another terrorist attack against the United States—preserve intelligence programs that are lifesaving and protect classified information from terrorists who can use that information against us.

As many of those watching know, after a lot of back and forth last week, Senators WARNER, GRAHAM, and MCCAIN have engaged with the administration and have sent an offer to the White House that moves toward the President to meet the goals of a program that keeps information flowing from these terrorists who want to destroy our country and kill our citizens. Without passing their plan through the Senate, these Senators have been good enough to sit down with the administration. Discussions are underway to find common ground and to move toward those stated goals. I am hopeful that very soon an agreement can be reached with the President and with the majority of Republicans who know that we need an effective interrogation program that can get information from terrorists so we can make America safer.

As well, we need a law that allows us to put these terrorists on trial for the crimes they have planned and executed against our country. Right now, we cannot do that. That is why this legislation is so important. But we need to do it in a way that we are not sharing classified information with those terrorists, who clearly will pass it on to others around the world to be used against us.

With continued cooperation, it is possible that in the next few days a resolution can be arrived at that satisfies the vast majority of Senate Republicans and the President, so that together we can all move forward in making this country safer.

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

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

The Senator from Wyoming is recognized.

IMMIGRATION

Mr. THOMAS. Mr. President, I wish to comment on the issue before us today. I am glad we are dealing with this question. It is certainly one that has had a great deal of discussion and impact all over the country as to how we handle it. I think it is one of our principal issues. Certainly, there is a different view as to how it ought to be handled and all these kinds of things; nevertheless, I believe it is important that we begin to do something. Even though there are many other things that legitimately could be considered, of course, sealing the border is probably the first step that ought to be done.

The Senate, of course, passed a bill that was quite lengthy—including ways and means of dealing with those who are already here illegally—and created a good deal of discussion and debate. I didn't support the Senate bill in that I thought it was too broad in terms of dealing with people who had come here illegally, even though I do believe there are some, depending on the situation, who should be given an opportunity to go through the system. But I am pleased that we are beginning to do something.

The first thing, obviously, is to do something about the border. I am going to support the bill before us, although I don't think it is perfect. I think, frankly, there needs to be some limit on building fences. I cannot imagine building a fence, a 40-foot-tall fence, all across the border. All we would have is 40-foot ladders if we did that. But there are areas in particular where this needs to be done. I think this is an authorization where some decisions can be made with respect to how that is done.

There ought to be other things we consider along with it. One of them is that we need to have a modernized system for people coming to the United States. All of us want workers and immigrants to be able to come legally. That system needs to be modernized, made more efficient, so that those kinds of things can happen without taking a very long time. We are challenged with the notion of having some kind of identification system where we can tell easily and clearly who are legitimate citizens and who are not.

In connection with that, I believe it is appropriate for employers to be required to report as to who on their work staff is legal and who isn't. As I said, this is a difficult issue and one we need to work on.

I simply want to say I am pleased we are moving forward to do something. I intend to support this movement today for cloture. I hope we can do that so we can start to do something about this issue, which is one of the most important issues to all of us.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

COUP IN THAILAND

Mr. BOND. Mr. President, I have come to the Senate floor many times to talk about our great interest in the nations of Southeast Asia and to call for increased engagement and more attention to the relations between the United States and Southeast Asia.

In the early winter of 2006, I spoke about the tsunami and the impact that had on the region. Many of us, particularly from farm country, remember what happened when Thailand's currency collapsed in 1997. It brought a tremendous decline in the region and a decline in our exports. We were previously exporting $12 billion of agricultural product—much from the Midwest—to that region, and that drop of $12 billion caused the precipitous drops in the prices of commodities sold by many farmers in the grain States. So we know that it is an important trading partner.

But yesterday, a military coup took over the Government in Thailand while its Prime Minister, Thaksin Chinnawat, was in New York at the U.N. Prime Minister Thaksin had been a successful businessman. He had strong support from Thailand's largely rural population but with opposition to the urban dwellers. In 2005, his Thai Rak Thai—which means ''Thais love Thais''—I cannot understand why we didn't think of something clever like that as a name for a political party—captured 374 out of 500 seats in the House of Representatives. The opposition party boycotted it, however. There was discussion of potential corruption by the sale by the Prime Minister of his telecommunications and satellite business. He had controversies with the military, beginning when 87 Muslim protesters in southern Thailand died in security custody, and the Prime Minister was attempting to put his own people in charge of the military.

After the election, the King stepped in and asked the court to review the election. They set it aside, and Thaksin essentially resumed power as Prime Minister even though the election was overturned.

Now, it is with great concern and disappointment that we see the military coup. Our neighbors in the region have spoken out. They have expressed concern, great disappointment. And it is clear that for the cause of the country and the region, the constitutional process must be restored in Thailand and an election date set for a new democratic government very shortly.

America has had in Thailand one of its best allies. We conduct numerous joint military exercises. Thailand was responsible for the capture of the infamous radical Islamic terrorist Hambali, who masterminded the Bali bombing. We have worked closely with them.

Thailand has been the economic stronghold of Southeast Asia. It is also a constitutional monarchy, with well-developed infrastructure and a free-enterprise economy and proinvestment policies. I think the economy will recover. As far as democracy, King Bhumibol, a benign monarch who served for 60 years, exercised his considerable influence to keep Thailand moving in that direction. Thailand, which, during the late 20th century, experienced numerous coups and military coups, had not had one since 1991. I believe King Bhumibol will push for a democracy and will get back on the negotiations between Thailand and the United States for a free-trade agreement.

As I said, Thailand is key in the region. I have described that region as the second front in the war on terror because al-Qaida-related radical Islamist groups have been conducting terrorist attacks here. It is set forth in a book by Ken Conboy, describing the most dangerous terror network. There is concern that since the bombings in southern Thailand have shown that there are insurgents—some 1,700 people have died—that this might become a haven, a breeding ground for the radical Islamists, rather than the insurgents in the three southern provinces of far south Thailand.

My view is that is an overreaction. I think the insurgents have issues with the Government, but to this point, I don't see evidence that they will become a host for al-Qaida or other related groups. They generally have practiced the moderate Muslim viewpoint of Islam of the Southeast Asia region.

Also, at the same time, I might mention, as we are speaking about the battle against terrorism and modern Islam, I visited Malaysia in August. Malaysia, again, has been a country that has been making great progress. It is a democratic nation committed to progress and development and has aspired to the peaceful and tolerant teachings of Islam. It is a key economic partner. It is our 10th largest trading partner overall. It has been growing at 5 percent annually. We are in negotiations for a free-trade agreement with them. Malaysia imports more from the United States than any

country, other than Japan, in that region. I believe that a free-trade agreement will help build on that constructive partnership in fighting terrorism and ensuring other security issues.

Despite all this, I saw a disturbing trend while I was there; that is, the possibility that some of the more radical views of extremism and intolerance in religion may be raising their ugly head in religion in Malaysia.

Most recently, a Malaysian woman who was born Azalina Jailani, changed her name to Linda Joy, and has been waiting for the federal courts to approve her conversion from Islam to Christianity. It was reported that when her application came to change her religion, it was rejected, and she was sent back to the Sharia or religious courts. Her lawyer has been arguing before Malaysia's highest court that Joy's conversion be considered a right under the constitution and not a religious matter.

We are watching this case with great interest. There are reports that provinces in Malaysia are going to change their law to implement the Sharia, or harsh religious law, as law of the province.

Sixty percent of Malaysia's people are Muslim, and Christians of various denominations make up about 8 percent. The rest are Buddhist, Taoist, and Hindu. We look forward to seeing a decision reasserting Malaysia's commitment to democratic principles and a rejection of intolerant religious laws.

Malaysia Prime Minister Abdullah Badawi has been an outspoken champion of tolerance. He has pointed out the obvious political dangers of taking that road, but I hope he will not succumb to the pressures that appear to be increasing to move down a path toward less tolerant and potentially more extremist forms of religion.

The pressures for adopting harsh religious laws are also being applied to Indonesia where President Susilo Bambang Yudhoyono has been another strong advocate of tolerance, freedom, and democracy.

The Muslim countries in that region, we hope, will continue on a path of secular, pluralistic, democratic societies or the choice is to see them turn from that path to a potential breeding ground for terror and instability.

Speaking of terror and instability, one country where I am not fearful of that occurring is Cambodia, which I also visited in August. I was stunned to see the World Bank put out a list of ''failed states'' with the danger of becoming harbors for terrorism, and they listed Cambodia.

To me, Cambodia is definitely heading in the right direction in terms of fighting terrorism. They are making great economic progress. We have been cooperating with them. They have contributed to counterterrorism efforts in the region.

Prime Minister Hun Sen said:

If we aren't active enough in fighting terror, we risk becoming the hostage.

They set up a national committee to fight terrorism. After the attacks on the United States on 9/11, Cambodia offered overflight rights to support our operations.

Cambodia has contributed peacekeepers to Sudan. The United States has provided international military education and training funds for the first time, and we are planning military exercises with Cambodia later this year.

The IMET contribution of $45,000 is small, but it shows we are willing to work with them and ensure their military has civilian control, appropriate rules of engagement, and other means of conducting themselves in this very difficult time.

There is an economic issue that I hope we can resolve successfully with respect to Cambodia because they are moving on the path toward what we would want to see, and that is democracy and human rights in this part of the world and free markets.

The economy of Cambodia has been growing since 1999, boosted by a bilateral textile agreement, and we believe that has been a reason for the strong economic growth.

Mr. President, I don't see any other Senators wishing to take the floor. I ask for 2 additional minutes.

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

Mr. BOND. Mr. President, Cambodia has adopted international labor rights and standards touted by the International Labor Organization as a model for other developing countries, and they are beginning to flourish. This is a country that has half its population under the age of 20 because of the unbelievable depredations of the Khmer Rouge in the late seventies and widespread murder and genocide. But it is on the right track.

However, with the expiration of the bilateral textile agreement, countries such as Cambodia are now losing out in the competition with economies such as China and India. I strongly support and hope we can pass a measure to enhance economic opportunities such as the Tariff Relief Assistance for Developing Economies, or TRADE Act, that will allow least developed countries, such as Cambodia, to remain competitive by enhancing economic growth. They need to create a better investment environment.

They are clearly not a Thomas Jefferson democracy yet. They have had a very colorful and very deadly past, but we think that with our help and support, they can redevelop what was once Southeast Asia's rice basket—prior to the Khmer Rouge's destruction of small irrigation infrastructure and the execution of anyone with agricultural expertise—again to a strong contributing economy.

We must adopt initiatives such as these for Cambodia and for other countries in the Southeast Asia region. We have to work to continue improving education, emancipation, economic development, and promoting democracy in Southeast Asia, as around the rest of the world.

Doing so is not only good neighborly, it will not only help the Southeast Asian nations move toward economic and political reform, but it will be the most important thing we can do against the war that radical Islam has declared upon our world and keep these countries from turning to the extremist violence, the terrorism we now see primarily in the Middle East and have seen too frequently, as noted in ''The Second Front,'' in Southeast Asia.

Mr. President, I yield the floor.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. VITTER). Morning business is closed.

## SECURE FENCE ACT OF 2006—MOTION TO PROCEED

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

The assistant legislative clerk read as follows:

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

The majority leader is recognized.

Mr. FRIST. Mr. President, in May of this year, this body passed comprehensive immigration reform. We are a nation of immigrants, but we are also a nation of laws. We must honor both of those heritages. Accordingly, we pursued in this body a four-pronged approach to reform: first, fortify our borders; second, strengthen worksite enforcement; third, develop a strong temporary worker program; fourth, develop a fair and realistic way to address the 12 million people here already who entered our country illegally, but under no circumstances would we offer amnesty.

Unfortunately, at this point it is pretty clear to everyone that we will not reach a conference agreement on comprehensive immigration reform before we break in September. While I have made it clear that I prefer a comprehensive solution, I have always said that we need an enforcement-first approach to immigration reform—not enforcement only but enforcement first.

We share a 1,951-mile border with Mexico, and it doesn't take too much creativity to imagine how terrorists might plot to exploit that border. It is time to secure that border with Mexico. As a national security challenge, that is absolutely critical to fighting a strong war on terror. That is the approach of this bill, the Secure Fence Act of 2006, a bill on which we will shortly vote.

Earlier this year, with passage of the supplemental appropriations, we provided almost $2 billion to repair fences

in high-traffic areas, to replace broken Border Patrol aircraft for lower traffic areas, and to support training for additional Customs and Border Patrol agents. In addition, we deployed more than 6,000 National Guard troops to our southwest border, and subsequently—and this is tremendous news—we saw a 45-percent drop in border apprehensions.

But we have to do more. The Secure Fence Act picks up where that supplemental left off. It lays the groundwork for complete operational control over our border with Mexico, and it will go a long way toward stopping illegal immigration altogether. Customs and Border Protection will take responsibility for securing every inch of our border with Mexico. Engineers and construction workers will erect two-layer reinforced fencing along the border. Hundreds of new cameras and sensors will be installed. Unmanned aircraft will supplement existing air and ground patrols.

We are enhancing and fortifying our borders to entry so we will have better control over who enters the country, how they come, and what they bring. We know this approach to enforcement works. We saw a drastic downturn in illegal immigration when Congress mandated a 14-mile stretch of fence in San Diego, from 200,000 border violations in 1992 to 9,000 last year.

The Secure Fence Act is a critical component of national security. It is an essential first step toward comprehensive immigration reform. So we can't afford to demean it with partisan political stunts.

Mr. President, very shortly we will have a vote to bring this bill to the floor. But the vote isn't just about this bill. It is about bolstering national security. It is about keeping America strong. It is about ensuring the safety of each and every American. With action here to secure our border, Congress and the Nation can turn to resolving the challenges of worksite enforcement, of a strong temporary worker program, and the challenges of the 12 million illegal aliens who live among us, with respect and care and dignity.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I would like to make some comments on this legislation and ask that I be notified after 8 minutes.

The PRESIDING OFFICER. Will the Senator suspend? Under the previous order, there will be 1 hour for debate equally divided between the two leaders or their designees.

The Senator is recognized.

Mr. SESSIONS. Mr. President, we are indeed a nation of immigrants. We will always have immigrants coming to our country, and they have enriched our Nation in so many different ways. It is time for us, however, to recognize that the policies we have adopted as a Nation are not working; that the law that we as Americans respect so greatly is being made a mockery of; the system is in shambles, and the American people are very concerned about it—as they rightly should be. I believe public officials are coming to understand the gravity of the problem after the American people have led them at last to that event.

For the last 30 or 40 years, the American people have been right on this subject. They have asked for a lawful system of immigration. They have asked for a system of immigration that serves the interests of the United States of America. And they have expressed continual concern about the illegality that is ongoing. Frankly, the politicians and Government officials have not been worthy of the good and decent instincts and desires of the American people.

Finally, I think those voices are being heard today.

We want to talk about the House bill that is on the floor of the Senate today. We are asking that this legislation be considered by the Senate. The majority leader has had to file for cloture because apparently some in this body do not even want to consider this legislation. They do not want to talk about it, push it away through surreptitious legerdemain. They want to figure out a way to undermine whatever legislation has been passed and make sure nothing ever gets done. That has been the problem. I hate to say it. We have gone again and again, and we have promised we are going to do something and we tell the American people we are going to do this and we are going to do that. But they are not ignorant, they know we have not done anything, except for the last few months we began to take a few steps that had some significance. But for the last 40 years we have basically had a system driven by illegality that is not worthy of the American people, not worthy of our heritage of law, and it must end.

Let me tell you what happened in the Senate about the fencing issue. Five months ago, May 17, my colleagues, by a vote of 83 to 16, after talking to their constituents, I submit, approved my amendment to mandate the construction of at least 370 miles of fencing and 500 miles of vehicle barriers along the southwest border. That totals 870 miles of physical barriers, either a fence or a vehicle barrier. Admittedly, that was a strong vote in this body, indicating that fencing on the southern border is and should be a part of our plan to recapture a legal system of immigration in America. It remains one of our important priorities.

On August 2, my colleagues, this time, by a vote of 93 to 3, voted to fund the construction of those miles of fencing and barriers on the DOD appropriations bill as part of the National Guard effort at the border. Today we will vote again. I expect and hope that the Senate will have the votes for cloture so we can move forward with this bill and not have it obstructed from even being debated in the Senate. The miles of fencing contained in this bill are not that different from what the Senate had already voted for, 93 to 3 to fund this year.

The Senate has already voted to fund them, and we are moving forward. This bill simply requires—the House bill that has been passed by the other body—that more of those miles be fencing in designated areas.

I will make this point: We are not there yet. Just because we have had these votes, just because the House has voted for fencing, just because the Senate, by an overwhelming vote, has authorized fencing, we have not begun to construct that yet. We have to get the money, and we have to get a final bill. The amendment I offered—that passed 83 to 16—was part of the comprehensive immigration bill. That bill is not going to become law. That whole bill is not going to become law. So if we are going to commence now to build a barrier on the border, we need to pass this legislation that actually authorizes it. So don't go back home and say I voted for it, but I didn't vote for this bill. This bill is going to determine whether we actually do something and we authorize it and direct how it is to be done, not your previous vote.

That is what has been happening. We have always said we have had these votes, but when the dust settled we never made it law and never made it reality. I urge my colleagues to understand that. Without this legislation we are not going to get there in the way you previously voted, and everybody needs to understand that.

Let me tell you a little bit about what is in the legislation. The majority leader summed it up correctly. I appreciate his leadership and his strong support from the beginning for sufficient border barriers. Majority Leader FRIST is committed to a good and just solution of the immigration problem in America, but he has come to understand that we have to take steps and do some things, and one of them is fencing.

This is what this bill will do. It will establish operational control of the border. Most people think we ought to have that now but we do not. We do not have operational control of the border. So not less than 18 months after the enactment of this bill, the Department of Homeland Security must take all actions necessary and appropriate to achieve and maintain operational control of the border. Isn't that what we want? Isn't that what we have been asking for, for 30 years?

Within 1 year of enactment, and annually thereafter, the Secretary must report to Congress and to the American people on the progress made toward achieving operational control of the border. We are not going to just pass a bill this time and forget it. We are going to have some reports and some analysis so we can monitor whether we are being successful.

Operational control under the legislation includes systematic surveillance

of the international land and maritime borders through the use of personnel and technology such as unmanned aerial vehicles, ground-based sensors, satellites, radar, and cameras. Those are all going to be part of any effective system. We know that. We are not opposed to that. But don't let anybody tell you only those things will make the system work. They will not.

The PRESIDING OFFICER. The Senator has used 8 minutes.

Mr. SESSIONS. Thank you, Mr. President.

Physical infrastructure enhancements to prevent illegal entry of aliens and to facilitate access to international land and maritime borders by the Customs and Border Protection Agency are important. The bill further defines operational control as the prevention of unlawful entry into the United States, including entry by terrorists, unlawful aliens, instruments of terrorism, narcotics, and contraband. Second, the bill extends the current requirement for border fencing in San Diego, requiring that fencing be installed by 2008 through several urban areas. It mentions those. All the fencing in the bill is focused on the heavily trafficked areas on the southwest border. None of the fencing extends further than 15 miles outside high trafficking areas.

Let me just say this: The system that we have today is failing so badly that last year we apprehended 1.1 million people entering into this country illegally. Tell me that is a functional system.

By sending in the National Guard, by building these barriers, by adding to the number of agents, each one of those steps will help send a message throughout the world that we are not wide open, that our borders are going to be enforced. You should not come illegally. You should wait in line and come legally.

Those are facts that I think all of us need to consider as we evaluate this legislation.

Mr. President, I see the Democratic leader here, Senator REID. I know his day is busy. I will be pleased to yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. REID. I so appreciate the courtesy that is so normal and usual from my friend from Alabama.

Mr. President, it is so interesting that here it is 5 days before we are set to adjourn, 6 weeks before an election, and this border fence bill has been brought forward. The majority and the President have had 5 years since 9/11 to secure our borders, but they basically ignored, for 5 years, this issue of national security. Now, with the elections looming, suddenly they want to get serious about protecting America. If they want to have this debate, I am happy to join in it.

First of all, we can build the tallest fence in the world, and it will not fix our broken immigration system. To do that we need the kind of comprehensive reform that the Senate passed earlier this year. We have been waiting for months for the majority to appoint conferees so we can move forward on this bill, but they have not done that.

Mr. President, I direct your attention and that of my distinguished friend from Alabama to this document called ''Immigration and America's Future.'' I just completed a meeting with Senator SPENCER ABRAHAM and Congressman LEE HAMILTON, who are cochairs of this Task Force on Immigration and America's Future. Twenty-five of the most prominent people in America have met to recognize that our system is in bad shape. This document will be made public in a matter of hours. It will be made public today. I so much appreciate their coming and talking about what they believe is good and bad about our system. I think it is without any exaggeration that they think the House suggestion that we can do it through just security will not work.

Our bill, our Senate bill—I am sure they are not going to endorse it but, of course, they think it is better than the House bill by a far measure.

Because it appears very clear to me that the President and the majority leader are not going to help us get this conference appointed—we have waited weeks and weeks for a conference—I hope that we can, when we come back next year, do something about immigration, something serious and substantial.

I have not read this document. I have the greatest respect for the people who have come up with this document, and I think we can find a lot of substance in it. We need a bill that combines strong and effective enforcement of our borders, tough sanctions against employers who hire undocumented immigrants, a temporary worker program, and an opportunity for undocumented immigrants currently in this country to have a pathway to legal immigration. They need to work hard, pay their taxes, learn English, and stay out of trouble. Only a combination of these elements will work to get our broken immigration under control.

President Bush says he supports comprehensive reform, but he has a strange way of showing it. I heard my friend, who is one of the Senate's lawyers. Rarely does he come to the Senate floor unless he has an element of the law on which to speak. One of the things he talked about, last year they apprehended a little over a million people coming across the borders. However, that is down 30 percent from the time President Bush took office until now. Prior to that, we were picking up close to 2 million. We have a system that just does not work.

It is not just people coming across our border; it is what they are bringing across the border. The General Accounting Office reported that they were able to bring nuclear materials across our border. Now, 6 months after we received that report from the General Accounting Office, the Republicans want to get serious about border security. What has taken so long?

For years, we have had procedures and laws in place to secure our borders—not well but certainly better—and they have been virtually ignored. The September 11 Commission told the President he should work with other countries to develop a terrorist watch list that our Border Patrol agents could use to check people coming in. Did he do that? No. The September 11 Commission gave him a failing grade.

In the 9/11 Act—we all remember that—Congress provided for 2,000 new Border Patrol agents. Guess what. Like so many things, they are authorized but not paid for. We have been unable to get the President and the Republican Congress to pay for these new Border Patrol agents. We authorized them and do not pay for them.

We did not oppose the sensible fence on the border. Almost all of us voted for a 370-mile fence as part of the comprehensive bill. If I am not mistaken, it is the Senator from Alabama who moved forward to have the fence paid for. That is good. Now we have an amendment to build 700 miles of extremely expensive fencing—some estimate it will cost as much as $7 billion—with no plan to fix our broken immigration system.

The majority has made very clear they have no interest in negotiating with the Senate to enact legislation. What we are doing today is about November 7th. In addition, we now hear the majority may try to include the entire House enforcement package in the Homeland Security appropriations conference report. This is the package that the House Republicans put together after their unprecedented summer of sham hearings about the Senate's comprehensive immigration reform bill.

Among the measures included in the package is a provision making the 12 million undocumented immigrants subject to arrest and detention. This provision has long been opposed by State and local law enforcement authorities who already are stretched thin and do not want to jeopardize the policing efforts in immigrant communities.

This is clearly an effort to sneak the controversial criminalization provisions of the House enforcement-only bill through the back door. I strongly oppose this illegitimate maneuver. If the Republicans want to move forward on these provisions, they should have agreed to a conference on immigration bills that each Chamber passed.

Enforcement measures alone will not secure our border. It is crucial we get control of our border. That is without any question. But, like many of my colleagues on the other side of the aisle, and like President Bush, I believe we can only secure our border through comprehensive reform. No amount of grandstanding will change that.

This is a rehash of a battle we already have fought. The Senate has spoken and profoundly disagrees with the House. The Senate is ready to sit down with the House and work out a real solution. We need the President and the majority leader to help find the solution. We have offered practical, workable, fair solutions to solve our immigration systems. The President and the majority leader said they supported what we were trying to do, but it does not appear they are interested in real solutions, just political posturing at this stage.

On the motion to proceed to this bill, I will vote aye in the hope that the majority leader will allow Members to amend it to reflect the Senate's bipartisan support for comprehensive immigration reform. At the very least, there are certain key things we need to do. The fruits and vegetables in our country are being thrown away at harvest time because we do not have the people to pick the fruit and vegetables and work at the processing plants. I hope that amendment would be allowed—at least the farm workers provision.

I wish we were in a different position. I, again, direct my colleagues' attention to this work done by Senator ABRAHAM, Congressman HAMILTON and 23 others. It is a bipartisan group. As I have indicated, I have not read this—I have gotten a briefing on it—but we need to have a new direction in immigration in this country. Hopefully, this document will allow that new direction.

Again, I so appreciate my friend allowing me to speak. I appreciate it so very much.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Democrat leader and his citing of that report. I look forward to reading it.

The reason that is important, this so-called comprehensive reform bill that actually passed the Senate, with a substantial number of no votes, is nothing more than an extension of the current failed system. It is not a comprehensive reform of immigration at all.

We had a hearing last week at my request. We had some of the best minds in America on immigration. They said our present system is completely ineffectual. I think that is fair way to summarize what they said.

They all spoke favorably of the Canadian plan, the Australian plan, and other plans being developed by developing nations around the world. It makes every sense that we do that. I am looking forward to analyzing that report. I am confident it will be further evidence that business as usual in immigration must end.

Next year we need to come forward—and I will commit to working with my colleagues—and have a real dialog on what immigration should be for America. The seminal expert in America, Professor George Borjas, himself an immigrant, at the John F. Kennedy School at Harvard, has written the most authoritative and best-known book on immigration, ''Heaven's Door.'' He just testified at our hearing last week. He has said in his book and in his testimony, fundamentally, America needs to ask this question: Are you crafting an immigration policy that serves your national interests?

If that is what we are doing, then he has some ideas that help us do that. But that is not what we have been doing. We have never had a discussion of the Canadian plan that gives preference to people with education. We have never discussed the Canadian plan that gives preference to people who already speak English. We have not discussed the system in Canada that gives preferences to people who bring business investment or have skills that are important in the workplace.

Isn't that what a rational nation would do? This bill that passed the Senate is fatally flawed. We need to start over completely. I believe, that report will validate the things I just mentioned.

Of course, let me say to all of our colleagues, no one suggests that building a fence is the end to the problem. Mr. T.J. Bonner, head of the Border Patrol Agents Association, testified at our committee. He said there are two things we need to do: We need to strengthen the border and eliminate the magnet of the workplace by cracking down on illegal hiring in the workplace.

The Senator from Nevada, the Democratic leader, is correct. We have seen some reduction in the numbers being apprehended. I hope that indicates we are seeing a reduction in those attempting to enter the country. I believe it does.

What should that tell us? That should tell us that if we continue to take strong steps, we can end this worldwide perception that our border is wide open, that anyone can come through our country legally or illegally and end that whole perception and shift toward that magic tipping point where people realize they are not going to be successful getting in our country illegally, and they are not going to be able to get a job once they get here. We can do both of those.

The American people need to know, our Members of Congress need to know, if we continue the course we are on and actually follow through on the things we have discussed, we can create a lawful border. It is not impossible. Don't have anyone say that is impossible. It is part of the steps. To say we should not do border fencing because that is just one step and that is not the whole thing is silly. If we have to take 20 steps to get to the goal, why say it is worthless to take 2 of those steps? Certainly we ought to take the steps we know we can do right now.

The American people are a bit cynical about what we are doing. The leader asks, Why do we want to bring it up now? We are about to finish the session, and we still haven't gotten it done. I don't want to go home without having done some things to improve the legal system of our border. I don't think most Members do. We have to get it done. We should have already had it done. I agree with that.

I was sharing some thoughts before the minority leader, the Democratic leader arrived, about what is in this bill, how it actually is effective and will actually work and will actually reduce the immigration in our country from illegal sources by a significant amount.

I was able to travel with Senator SPECTER, chairman of the Judiciary Committee, to South America recently. We were in a number of countries. We saw a report on polling data in Nicaragua that said 60 percent of the people of Nicaragua would come to the United States if they could. I mentioned that to the State Department personnel in Peru. They told me that 70 percent of the people in Peru would come to the United States if they could, according to a recently published poll. This is a wonderful place. America is a great country. All over the world, millions and millions and millions would like to come here. We cannot accept everyone that would like to come. I wish we could, but it is just not possible.

We need to set standards and appropriate behaviors to create a system that is lawful, No. 1; also, a system that lets people come in on the basis of merit and what is in the best interests of our country.

The House bill we are now considering has some important and valuable things in it. It calls for interlocking surveillance camera systems that must be installed by May of next year. They are going to keep waiting. How much longer can this go on? We need Homeland Security to get moving. It says all of the fencing must be installed by May of 2008. That is a good step. That says we are going to get serious and we are going to do something.

Laredo-Brownsville would be given until December of 2008. The bill provides the Secretary of Homeland Security the flexibility to substitute fencing with other surveillance and barrier tools if the topography of a specific area has an elevation or hillside of greater than 10 percent.

I ask what the balance is on both sides.

The PRESIDING OFFICER. The majority side has 11 minutes remaining and the minority side has 20 minutes remaining.

Mr. SESSIONS. Mr. President, the bill that is before us today requires the Secretary, not later than 30 days after passage, to evaluate the authority of our Customs and Border Protection agents to stop vehicles that enter the United States illegally and that refuse to stop when ordered to stop. Compare that authority with the authority given to the Coast Guard to stop vessels on the high seas that don't stop

when they are ordered to stop, and to make an assessment about whether the Border Patrol authority needs to be expanded. We have a real problem with people just riding by and placing people at risk by not stopping. That situation needs to end.

We need to give our agents authority sufficient for their own personal safety and the protection of the laws of this country.

The Secretary would be required to report his decision within 60 days.

The bill further calls for a northern border study to assess the feasibility of a state-of-the-art infrastructure security system. The report will assess the necessity for such a system, the feasibility of implementing a system, and the economic impact of the system.

We need to look at the northern border. We are not arresting 1 million people-plus a year on the northern border. It does not have anything like the impact of the movement of people illegally such as we have on the southern border, but we need to watch that, too.

Fencing is proven. In San Diego, where they built a fence a number of years ago, crime has fallen dramatically. According to the FBI Crime Index, crime in San Diego County—the whole county—dropped 56 percent between 1989 and 2000. Can you imagine that? Just by ending the open border that existed, vehicle drive-throughs where they do not stop—and the reason they have fallen from between 6 and 10 a day before the construction of the fence, to only 4 drive-throughs in 2004, the whole year.

This is a mockery of law when 6 to 10 people are just driving through the border ignoring the Border Patrol officers who are there. What kind of mockery of law is that?

Fencing has reduced illegal entries in San Diego.

According to the numbers we have, apprehensions decreased from 531,000 in 1993 to 111,000 in 2003. That is by four-fifths. That is only one-fifth the number being arrested today as there were 10 years ago as a direct result of serious enforcement bolstered by physical barriers.

Fencing has also reduced drug traffic in San Diego. In 1993, authorities apprehended over 58,000 pounds of marijuana coming across the border. In 2003, only 36,000 pounds were apprehended. In addition, cocaine smuggling decreased from 1,200 pounds to 150 pounds.

I am glad to hear that the majority leader—and the Democratic leader—indicated he would move to have this bill come forward on the Senate floor. If there is some tweaking which needs to be done, that will give us an opportunity to do that.

I think the bill is fundamentally sound in all respects. I urge my colleagues to look at it. I think they will feel comfortable that it is consistent with their previous votes in this body for a fencing measure.

But the Members of our body need to understand that our first vote on fencing, which we authorized on the immigration bill, is not going to be effective because that bill is not going to pass. It was an amendment to that bill. If we are going to do anything before we leave this year—and the American people should be watching us carefully—this is what we need to do. We have an opportunity now to stand up and make real what we have talked about and what we voted for. If we don't do it, we will not make that reality come into effect, and we will not be faithful to the promises we made to our constituents. And, once again, we will see this kind of cynicism and disrespect for Congress because of our inconsistency in what we say and what we do.

Too often I have observed in this body when we come up with an idea about immigration that does not work, it will pass. If you come up with something that actually does work, for some reason or another, even if it is voted and passed in one body or other, it never seems to really become law. This time we need to make our legal system work.

I thank the Chair.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. There is 4 minutes 10 seconds.

Mr. SESSIONS. Mr. President, I am convinced that physical barriers at our borders—fencing in particular—are an important and central cost-effective solution to border security.

My colleague, the Democratic leader, has used a figure of $7 billion. We think that is greatly exaggerated. We believe it can be done for much less than that, although that money has been floated. A private contractor has indicated he could do it for about $1.8 billion, and that is the money we put into the bill. And with the help of the National Guard, I think we ought to be able to build fencing at a rate far less than that.

I note that this is a one-time expenditure. This expenditure is going to reduce the 1 million apprehensions a year dramatically. A barrier like this will enhance the ability of each and every single Border Patrol officer to do his or her job. It will enable them to be far more effective. It is going to enable us to not have to hire nearly as many people. It will send a signal to the world that our border is not open. That means we will need fewer bed spaces.

We are going to be moving toward reaching that tipping point where the border is perceived as being closed, where the legal system is being honored in America again, and where we can make a difference in this whole system. Manpower alone cannot work.

Are they going to have to stand every 500 yards on the border and try to catch people? When you apprehend somebody, you have to pay to take them to a facility and then take them back across the border; or if there is some distant country, pay for a plane ticket and send them back home and put them in a detention place until that occurs. We think we need a catch-and-release program. But even if we do this, it is still very costly.

A fence is going to save us billions of dollars over the years. It is going to allow us to be effective, with fewer Border Patrol agents. It is going to help us reach that tipping point where we will need far fewer bed spaces and far fewer planes to charter to take people back home. We will have far fewer efforts to move people back across the border, at a great savings to this country. This is a cost-savings bill. It is a statement bill, I submit. When you count the costs of salaries and the time and insurance for our Border Patrol, the risk at which they are placed, a fence is going to be a tremendous asset to them. We will have a roadway so they can move down in their vehicles along the border to pick up people who have entered. The word is going to get out that it is not easy to do that anymore.

There are a lot of other things we need to do. We need to clarify the current law as it exists.

Along with my staff person, Cindy Hayden, a lawyer on the Judiciary Committee, my chief counsel, we wrote a Law Review article for the Stanford Law Review. We talked about the authority of the local law enforcement officers. They have authority in most instances, but it is blurred and confused, and as a result most State and local law enforcement officers are afraid to do anything. We need legislation that will fix that. We need the workplace enforcement.

All of these are steps that need to be taken so that people can't come into the workplace fraudulently and get a job as they are today. Those things can be done, but a critical part of this entire process is securing the border first. The American people expect us to do that.

This legislation gives us that capacity. We can make that difference, and the result will be that we are going to see further improvements in the number of apprehensions.

Then, next year we need a good dialog. As Senator HARRY REID said, we need to take Professor Borjas's book, ''Heaven's Door,'' and take other testimony that we have seen and reviewed and build on that and develop a comprehensive program that we can be proud of, that will allow talented immigrants to come here, people whom we know scientifically from studies and analyses will be successful in America, who will pay more in taxes than they take out. And the numbers are really scary.

Large numbers of people coming in today are high school dropouts, do not have a high school diploma. According to the National Academy of Sciences, a person coming into our country without a high school diploma, over a lifetime, will cost the U.S. Treasury almost $90,000. Think about that. They

will have a low-wage job. They will not be paying income tax. They will be receiving other benefits. That does not include extra schools and highways that will have to be built. It only includes what they will be getting in terms of earned-income tax credit or Food Stamps and other benefits such as medical and the like.

We are moving now. The American people's voices are beginning to be heard. But I think we are going to have to study this issue. If the American people will stay in tune, if they will insist on the highest and best values, including law and decency and generosity and a positive view of immigration, we will have all those values at play in our decisionmaking process. We can come up with legislation next year that actually could do more good than most people realize.

I can't tell you how exited I am about it. But it is absolutely essential that we take steps today to gain credit with the American people; to have them understand that we are listening, that we are going to make the legal system work. And then we can enter into a dialog with them next year to develop, as Professor Borjas's book says, policies that serve the legitimate interests of our Nation.

Why shouldn't we do that? Other countries are doing that. Are we saying that Canada is not an advanced and humane nation? Are we saying that the policies that New Zealand adopted are not humane and decent and effective? Look at it. We will find that they are. In fact, they allow quite a number of people to come into their country every year, but they try to allow those to come who have the best chance of being the most successful.

It has exciting possibilities for us. It is important that the misguided legislation that has come through this Senate has now ground to a halt, that the House has flatly rejected it, and that we in our own body are reevaluating it—I think rightly—and we will be at a point where we can start over, start afresh and develop a comprehensive plan.

Let's get credibility with the American people.

Let's make this border a lawful border again, and we will see a reduction in crime. We will see increasing economic and commercial development in the areas where enforcement becomes a reality. We can tell the world that you have an opportunity to come to our country, but you are going to have to meet standards. You will have to apply, and you will be objectively and fairly evaluated. And if you meet those criteria, you will rise up in the list. If you do not, you may not be able to get in. We are sorry, because everybody cannot come in here. We wish it were different, but it is just so. We cannot accept more and more and more. We have to decide what the right number is, what skills and assets they bring that we want for our country, and make a selection process on that basis. It is really exciting, that possibility.

In our situation today—I say to my colleagues, I would like to share this one thought with you—and I am sure the report that Senator REID mentioned probably has some discussion of it because it is a defining event—only 20 percent of the green cards—that is the card that gives one permanent residence in the United States—only 20 percent of those are given out based on the skills of the applicant. Think about that. How can that be in our national interest? The experts we have heard say it is not in our national interest. Canada and other nations have analyzed this. They have decided that is not where they want to go. So they are trying to get to 60, to 70 percent based on skills.

Yes, we will always have those subject to persecution around the world, humanitarian cases, who we will allow in our country. But the number and the way we are doing it now is not a sensible way to proceed.

Mr. President, I yield the floor and reserve the remainder of my time.

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

Mr. SESSIONS. Mr. President, I notice that none of my colleagues are here. Senator REID, I am pleased to say, indicates he will be supporting moving forward to the bill and cloture. I will take time, as we are heading up to the hour to vote, to share a few additional thoughts.

The only way we are going to get an authorization of the fencing is to pass this amendment. The authorization for border barriers I offered as an amendment, which was adopted as part of the comprehensive so-called immigration bill, will not become law because that bill will not become law. This is the way we have now to do it.

The House has passed a bill that is thoughtful, that makes sure we are not playing a shell game with the American voters but that we actually create a mechanism to ensure that the fencing gets built on a timetable. It includes a number of other things, such as technology and sensors and the like.

The second aspect of the legislation is very, very important. We voted in this body 93 to 3—and the majority leader and the Democratic leader both made reference to it—to fund it at $1.8 billion. That was a commitment we made. We said we were for that. This budget that we passed has $20 billion set aside for emergency funding as part of our budgetary expectations for this year. How much of that will go to homeland security? We have to be careful to watch. And even though we authorized these barriers at the border, which are going to make a huge, huge difference in reducing illegal entry into America—it is going to be so positive—but if we do not fund it so we can actually build it, it cannot be built. That requires an appropriations.

So I am getting worried about that. I am hearing some things—that the $1.8 billion we passed with such an overwhelming vote may not be funded. So isn't that the shell game we are talking about now? Isn't that the deal? We thought we had done it on the Defense bill. It would be built through the National Guard who is already on the border. And the money would go to them to supervise, to contract out, or utilize their own personnel to construct this fencing.

That is what we thought we had done. But as often happens around here, subtle things happen. You think you have something in your hand and like a will-o'-the-wisp it just disappears. I hate to use the words ''shell game'' because it is not always planned out that way, but the effect can be the same. First you think you have it, and then it disappears. You think it is under that shell, you think you have it, and it is not there.

So I am going to have to tell our leadership on both sides of the aisle I am pleased to see we have a commitment to building the fences. We voted twice now, and the House has overwhelmingly voted for this. But we need to make sure we don't play a shell game where we don't have the money at the end to build it because somebody wants to spend it on a pet project they have.

This is a matter of national interest. It is a matter of national security. It is a matter we cannot fumble the ball on. It is a matter we are committed to by our previous votes. So let's make sure we do it. And setting priorities is what we do. That is what we are paid to do. We cannot do everything. So we will have a bit of a test as the session winds down to see if the appropriations process—the actual appropriating of the money to do the things that are needed to be done—is carried out and the funding is there and the barriers are built.

Again, I repeat, this would be a one-time expenditure. I believe the numbers we are hearing are too high. We felt like $1.7 billion, $1.8 billion would do the 370 miles of fencing, including 500 miles of vehicle barriers. There is enough money to fund that. But if we are going to have to have that, we can't have no funding, a third of the funding, or a half of the funding or we are not going to be able to do this job. And if it turns out we are wrong and the cost is higher than we expected, we are not going to come close to doing what we are telling the American people we intend to do. So we will have to watch that.

I will just share, in conclusion, my thoughts about the nature of the American Republic of which we are a part. It is a good and decent nation. We have a positive view of immigration. We have been a nation of immigrants from our founding. We believe in immigration. But we are also a nation of laws.

I was a Federal prosecutor for 15 years, and it breaks my heart to see the Federal United States law be made a mockery along the border of our country, that without fencing people are driving by, and not even stopping when the Border Patrol attempts to detain them.

We had a hearing yesterday on crime in America. We had the Director of the Bureau of Prisons. He told us that in the Federal prison penitentiaries 27 percent of the people detained are not American citizens. Can you imagine that—27 percent?

Now, I am absolutely convinced that overwhelmingly the people who come to our country are law-abiding; even if they come to our country illegally, they are law-abiding, other than their entry. But I have to tell you, if I were in big trouble somewhere in some foreign country, and they were trying to arrest me in my hometown, and the chief of police knows my name, and I am facing a big, serious crime, why would I not want to scoot across the border and go to the United States where nobody would know me?

I think we are picking up an excessive number of people who may even be fleeing prosecution in their towns or people who have come here to set up drug distribution networks and things of that nature. So somehow we are picking up a larger number of the criminal element than we ever have. When I asked Mr. Lappin about the prison system and the fact that he said 27 percent of the people in the Federal penitentiaries are noncitizens, I asked him: Does that include those we detain at the border who are being held waiting to be deported? He said, No, it does not even include those.

So this Nation, in our own interest, has every right—indeed, we have a duty to our people—to make sure our borders are not wide open, terrorists do not come here, drug dealers do not come here, people in trouble for sexual offenses and child pornography and those kinds of things, and child abuse, who flee their own countries, do not run across the border to safety in the United States, where they are never apprehended and live here.

So this is all part of it. If we are coming through with the right funding, we will be successful in taking the historic step to creating a lawfulness in this country.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SANTORUM. Mr. President, I wish to say a few words before we move to the cloture vote on H.R. 6061, the Secure Fence Act of 2006. Colleagues, the purpose of the fence is to prevent illegal pedestrian and vehicular traffic crossing the international border of the United States with Mexico.

This bill does four main things. First, it authorizes over 700 miles of two-layered reinforced fencing along the southwest border with prioritized placement at critical, highly populated areas. Second, the legislation mandates that the Department of Homeland Security, DHS, achieve and maintain operational control over the entire border through a ''virtual fence'' that deploys cameras, ground sensors, unmanned aerial vehicles, UAVs, and integrated surveillance technology. Third, it requires DHS to provide all necessary authority to border personnel to disable fleeing vehicles, similar to the authority held by the U.S. Coast Guard for maritime vessels. Finally, the bill requires DHS to assess the vulnerability of the northern border.

Some of my colleagues ask why we need these additional border control tools. When combined with high-tech detection devices, a secure fence should make attempts to cross our border more time-consuming so that the Border Patrol has time to respond and catch those trying to breach the border. Having a state-of-the-art border security fence system should ensure that it cannot be easily compromised. The business of apprehension is manpower-intensive, slow, and legally complex. If we only build a ''virtual fence'' without additional physical barriers, we will spend millions on technology that is subject to ordinary downtime and then spend even more money to chase down, apprehend, process, and deport the illegal border-crossers.

I believe instead we should add these tools to the toolbox of the Border Patrol, as requested by DHS. An increased manpower alone approach would have the Border Patrol remain vulnerable to decoys and other tactics designed to draw our border agents into one area so that another area is left exposed. This fencing will help border control efforts and will not be an inhibitor to legitimate entry to this country.

More importantly, we know that fencing works. With the establishment of the San Diego border fence, crime rates in San Diego have fallen off dramatically. According to the FBI Crime Index, crime in San Diego County dropped 56.3 percent between 1989 to 2000. Vehicle drive-throughs in the region have fallen from between 6 to 10 per day before the fence to only 4 drive-throughs in 2004, and those occurred only where the secondary fence was not complete. According to numbers provided by the San Diego Sector Border Patrol in February 2004, apprehension decreased from 531,689 in 1993 to 111,515 in 2003.

The Senate should take up and pass the Secure Fence Act of 2006 and give the Border Patrol all of the tools it needs to do its job. The Senate should send a clear message that we need this fence and we need it now. Let's send this bill to the President before we leave at the end of the month.

Mrs. HUTCHISON. Mr. President, I rise today to again voice my strong support for securing our Nation's borders, which remain porous. We must immediately address this threat to our national security.

I have consistently supported and voted in favor of border security efforts such as the installation of reinforced fencing in strategic areas where high trafficking of narcotics, unlawful border crossings, and other criminal activity exists. I have also supported installing physical barriers, roads, lighting, cameras, and sensors where necessary.

However, I object to the Congress making decisions about the location of border fencing. These decisions should be made by State and local law enforcement officials working with the Department of Homeland Security, not dictated by Congress. The border States have borne a heavy financial burden from illegal immigration; their local officials are on the front lines. They should be part of the solution.

Ours is a nation of laws and we must be a nation of secure borders. I stand resolved to work with my colleagues to enact meaningful legislation in this session of Congress that addresses border security first and enacts comprehensive immigration reform.

CLOTURE MOTION

Under the previous order, pursuant to rule XXII, the clerk will report the pending motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

Bill Frist, Ted Stevens, Robert Bennett, Lisa Murkowski, Mike Enzi, Pat Roberts, Jeff Sessions, Orrin Hatch, Wayne Allard, Thad Cochran, James Inhofe, Trent Lott, John Ensign, Jon Kyl, Tom Coburn, Mitch McConnell, John Cornyn.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum has been waived.

The question is, Is it the sense of the Senate that the debate on the motion to proceed to H.R. 6061, the Secure Fence Act of 2006, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), and the Senator from New Jersey (Mr. MENENDEZ) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) and the Senator from New Jersey (Mr. MENENDEZ) would each vote ''yea.''

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

The yeas and nays resulted—yeas 94, nays 0, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—94

| | | |
|---|---|---|
| Alexander | Domenici | Mikulski |
| Allard | Dorgan | Murkowski |
| Allen | Durbin | Murray |
| Baucus | Ensign | Nelson (FL) |
| Bayh | Enzi | Nelson (NE) |
| Bennett | Feingold | Obama |
| Biden | Feinstein | Pryor |
| Bingaman | Frist | Reed |
| Bond | Graham | Reid |
| Boxer | Grassley | Roberts |
| Brownback | Gregg | Rockefeller |
| Bunning | Hagel | Salazar |
| Burns | Harkin | Santorum |
| Burr | Hatch | Sarbanes |
| Byrd | Hutchison | Schumer |
| Cantwell | Inhofe | Sessions |
| Carper | Isakson | Shelby |
| Chafee | Jeffords | Smith |
| Chambliss | Johnson | Snowe |
| Clinton | Kohl | Specter |
| Coburn | Kyl | Stabenow |
| Cochran | Landrieu | Stevens |
| Coleman | Lautenberg | Sununu |
| Collins | Leahy | Talent |
| Conrad | Levin | Thomas |
| Cornyn | Lieberman | Thune |
| Craig | Lincoln | Vitter |
| Crapo | Lott | Voinovich |
| Dayton | Lugar | Warner |
| DeMint | Martinez | Wyden |
| DeWine | McCain | |
| Dole | McConnell | |

NOT VOTING—6

| | | |
|---|---|---|
| Akaka | Inouye | Kerry |
| Dodd | Kennedy | Menendez |

The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Ms. STABENOW. Mr. President, I ask unanimous consent to claim my 1 hour at this point and ask to speak as in morning business.

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

JOB LOSSES

Ms. STABENOW. Mr. President, I rise today to talk about the most pressing issue that I believe families feel across this country and certainly in my home State of Michigan, and that relates to the squeeze that families are feeling on all sides today. It starts with the issue of jobs. We see that almost 3 million jobs have been lost in the manufacturing sector in the last 6 years—almost 3 million jobs. When we look at this chart, under this administration we see that we have the slowest job growth of any administration in over 70 years. We have to go back to Herbert Hoover to see the kind of job loss that we are now seeing—the slowest job growth in over 70 years.

In my home State of Michigan it is even worse than that, because what we are seeing is the impact of a lack of a 21st century manufacturing strategy on those in my State who have been the global leaders—who are the global leaders—in manufacturing. Almost 3 million jobs have been lost in manufacturing alone, and 260,000 of those jobs have been in manufacturing in Michigan.

Now, to add insult to injury, we see expenses going up on all sides for families. They are losing good-paying jobs.

Mr. SARBANES. Mr. President, would the Senator yield for a question about the previous chart?

Ms. STABENOW. Absolutely. I yield to my dear friend who is the ranking member on the Banking, Housing, and Urban Affairs Committee.

Mr. SARBANES. Mr. President, as I understand it, this figure here reflects the amount of annual growth rate of employment under the Bush administration.

Ms. STABENOW. That is correct.

Mr. SARBANES. At four-tenths of 1 percent.

Ms. STABENOW. That is correct.

Mr. SARBANES. We should compare that with the job growth that has taken place in all of these previous administrations. This is the smallest amount until we get back to Herbert Hoover, is that correct?

Ms. STABENOW. Absolutely. Prior to the Great Depression.

Mr. SARBANES. Right. It is a matter of very great concern. This chart is a dramatic demonstration that this so-called economic recovery has not really produced jobs, which, after all, is one of the main purposes that we seek in terms of the workings of the economy.

Ms. STABENOW. Absolutely. In my home State of Michigan, because we are the global leaders in manufacturing, and I know in my good friend's home State of Maryland it is the same way, in terms of manufacturing, that number is even worse because of the lack of effectiveness in enforcing tradeoffs, because of our inability to address health care and being able to change the way we fund health care, because of the lack of investment in education and innovation. That number does not reflect the fact of the impact of the loss of good-paying jobs, the kind of jobs that have built the middle class of this country.

Frankly, I am very proud to represent a State that has been at the forefront in the auto industry, with an industry that has created the middle class in this country—middle class jobs, not only in autos, in furniture production, in other manufacturing.

The reality is that we have lost almost 3 million jobs that created the middle class of this country. Even though there has been just a tiny little bit of an increase here over all, we see it is the lowest, slowest job growth of any administration. We have to go way back to Herbert Hoover to find an administration that has a worse jobs record than this particular President.

I have to say it is particularly insulting to those of us in Michigan who, given this record and the fact that we have almost 3 million jobs that have been lost, and 260,000 manufacturing jobs in Michigan alone, that when the President of the United States came to Michigan a couple of weeks ago to do political fundraising, he didn't have 30 minutes to meet with the auto industry. He didn't have 15 minutes to meet with the executives of the largest employers in the country. In fact, he has postponed or canceled I believe three different meetings with them and now says he is prepared to meet with them after the election.

This isn't about elections. This isn't about politics. This is about a fight for a way of life. This is a fight for a way of life in this country. While he is waiting until after the elections to meet with the auto industry and to begin to engage to do something about these numbers, we have folks who are facing layoffs today. We have headlines. We have Ford Motor Company and their latest headlines. We have struggles going on throughout the industry. Every day, somebody in Michigan gets up in the morning and worries about whether or not they are going to have a job, worries about whether or not they are going to be able to afford to send their kids to college, whether or not their health care is going to still be there, and whether or not they are going to be able to pay for it.

To add insult to injury, too many people who have worked all their lives and who have paid into a pension are now finding themselves in a situation where that pension won't be there. I think that is the ultimate outrage. In the United States of America, I never thought I would have to stand on the floor of the U.S. Senate and say somebody may be in a situation to lose a pension they have paid for their whole lives. We addressed this issue on a bipartisan basis, and I am very proud we put in place efforts that are going to save many of those pensions because of the work that we did a few weeks ago. But too many people still find themselves on the line as a result of that, and that should not be an issue. Bankruptcy or no bankruptcy, in this country you ought to get your pension, period.

So we have a situation where more and more families are on the edge, more and more families who believe in America, who believe in playing by the rules, who get up every day and work hard at one job, two jobs, three jobs, and still find themselves falling more and more behind.

On top of the job situation that they are concerned about, they are being squeezed on all sides by all of the other costs that relate to their families. We see, for instance, a 44 percent increase in the cost of college tuition, room, and board—a 44 percent increase. So here we are, we are in a transition. We hear that the economy is changing. We need to be investing in education. We need to be investing in opportunity for the future, and in innovation and, at the same time, we see the costs going up, and the exact opposite policies are being put in place in terms of cutting opportunity for people.

We all want our children to have a better opportunity than we have had. I am very fortunate to have two children who have worked their way through school and a wonderful stepdaughter who just graduated. I understand about

student loans and what that means. I know the costs have gone up, because we have watched them go up over the last several years. There is no question that families are feeling more and more squeezed as it relates to creating opportunity for their children to be successful, and that makes no sense in this country. That makes no sense at this time when we could be doing something about it.

Health insurance premiums have gone up 71 percent. Seventy-one percent under the Bush policies and this administration—71 percent. Now, this is an issue for us in Michigan with not only families and individuals who are struggling to be able to pay for what I believe should be a right in this country, not a privilege, which is health care, but we know what it is doing to our businesses as well. We know that in a global economy, we are the only industrialized country that pays for health care the way we pay for it. So we add to the burdens on our manufacturers, our small businesses, and others by having health care predominantly on the backs of business

To make it even worse, we end up, because of our system, because of the craziness of our health care system, paying twice as much of our GDP for health care as any other country, but we have 46 million people with no health insurance. What is wrong with this picture? The United States of America has the highest infant mortality rate. Shame on us. We can do better than that. All this takes is a matter of political will, to make the changes that are necessary so no family has to go to bed at night praying that the kids are not going to get sick; no small business has to worry about whether they are going to be able to find health care for themselves and their employees; and no manufacturer should have to worry about whether they are going to be able to compete internationally and still provide health care for their workers.

Health care costs have gone up 71 percent. To add insult to injury, gasoline prices experienced a 104-percent increase. They are coming down now. They are coming down a little bit before the election. We know what will happen after the election. And we also know what has happened to people trying to go to work, trying to take the kids to school.

In my home State, in Michigan, where we have a very robust tourism season, we want everybody to be able to go to the cottage up north, take the boat out, and enjoy the wonderful Great Lakes or go fishing on the inland lakes and rivers. This is a major economic factor for us, gas prices. What happens to individuals who have to take more money out of their pockets just to be able to get to work? Maybe this summer they didn't take that trip they normally take, which means our small businesses up north were hurt. It means economically we are not seeing the robust investment in tourism that normally we have seen in Michigan.

Families are being squeezed on all sides. This is just a fraction of the cost we have seen going up. What has been the response of this administration? What has been the response of the Republicans in Congress? Unfortunately, the response has been, first of all, to block our efforts to ban price gouging. As part of the Energy bill that passed a year ago, an amendment of mine was agreed to that required the Federal Trade Commission to do a complete investigation of price gouging. It took them way too long, but they finally came back and indicated that on the surface of it, they didn't think it was happening and they really didn't have the tools. We had not defined price gouging so that they could really be serious about that. The administration basically took a pass on whether there is price gouging. So we introduced legislation to define it. That has not been able to move because there has been no support to do that.

Health care costs? We could go on and on in all of the areas in which, instead of coming together and doing what we can do, efforts have been blocked. Here are some of the basics, starting with the Medicare prescription drug program. Instead of having a plan that works for seniors and the disabled, a plan was written that was great for the drug industry. Included in that was the outrageous provision that we are not allowed—Medicare is not allowed to negotiate group discounts. Can you imagine that anywhere else? Anybody knows bulk purchasing is cheaper, negotiating group prices is cheaper. Yet, in the area of Medicare, in behalf of the industry, that is prohibited.

What is the result of that? First of all, we have a Medicare plan, essentially, that is privatizing Part D, requiring those to go through private insurance rather than directly through Medicare. There is just a great big hole. Some folks have called it a doughnut hole, this gap in coverage, because there is not enough money to pay for complete coverage because they can't negotiate group prices. All the money is going to the industry rather than going to make sure there is comprehensive coverage.

There is a better way to do that. I am introducing legislation that would allow us to go directly to Part D. Any senior, any person with disabilities, could go directly to Medicare, sign up under Part D under the normal copays and premiums, go to their local pharmacy, they negotiate prices, we eliminate the gap in coverage, and folks would get what they need without all of the confusion and complexity. But that has stalled. We have not been able to move that forward because of the administration and those in control.

Mr. SARBANES. Will the Senator yield for a question?

Ms. STABENOW. Absolutely.

Mr. SARBANES. Isn't it the case that the VA, in providing health care for veterans, can use its bargaining position with the pharmaceutical companies to get lower drug prices and therefore is in a better position to provide more extensive coverage for the veterans as a consequence? But on the Medicare for our seniors—I remember the Senator opposing that provision so strongly here on the floor—it is prohibited that Medicare enter into this bargaining with the pharmaceutical companies, bulk purchasing, in order to get lower prices on the drugs?

Ms. STABENOW. The Senator is absolutely correct. We have the model. It is the VA. They have done it very well. They have been able to get a better deal, anywhere from a 35-percent to a 40-percent lower price because they negotiate prices. I don't know anywhere else in the Federal Government where we are not trying to get the best price, where we are not trying to negotiate, except in the area of prescription drugs, except in the area of lifesaving medicine where somebody may need it or they may not be able to live or may not be able to treat their symptoms for high blood pressure or diabetes or get their heart medicine or get their cancer medicine—except in the area that is lifesaving.

Even with the VA, which does a marvelous job in negotiating prices, we are able to do that in every area except Medicare—Medicare, the health care system for older Americans and the disabled. It is the only place where the decision was made to go with the drug companies rather than to go with the people who are on Medicare.

There are so many areas in health care costs we should be addressing—health IT, bringing down the cost of prescription drugs with the use of generic drugs, addressing the issue of health care costs. Senator DURBIN and Senator LINCOLN have a very important proposal that would allow small businesses to pool together nationally and to be able to have a pool—whether it is Blue Cross, whether it is other private insurance, whether it is HMOs—be able to pool together to get the best price. That came to the floor and was voted down.

I have legislation that would provide a catastrophic tax credit for our manufacturers. We know about 1 percent of employees in a business will be seriously ill during the year, but it is 20 to 25 percent of the cost of the health care paid during that year. We could take a major step forward if we provided a tax credit for catastrophic costs to help our manufacturers and our businesses.

This is not rocket science. It is about having the political will and the right values and the right priorities. This has not happened here, and every day people continue to struggle with their health care. Too many people end up in emergency rooms where we pay twice as much because they are sicker than they should be and they are not getting the care at the time they should be getting it. They get treated. The hospital, of course, does the treatment, as it should. Then the costs roll over onto everybody with insurance. That is why

we pay so much for health care, and we in the Senate should be focusing on this as a No. 1 priority.

I mentioned college tuition before. Right when we need to be focusing on more opportunity for people in a changing economy—we all talk about education all the time—what happens here? Right before Christmas, we had the largest cut in student loans in the history of the country, $12 billion. For everybody who had to refinance their loan by July 1 and saw their interest rate go up, it was as a result of that.

Then, on top of that, we see the President proposed the largest cut in education for next year, the largest ever proposed since the Department of Education was established. Who would believe that at this time, in a global economy, that we ought to be proposing and passing the largest cuts ever suggested for education? These are the wrong priorities and the wrong direction.

And then, certainly, time and time again, we have tried to pass a minimum wage bill that truly raises the minimum wage for everyone. It is something that makes sense. It is something where workers in every State will find that their minimum wage will be raised.

Let me just say that I see our distinguished colleague here, Senator REED, who has played such a distinguished role on economic issues, and I will yield to him to speak in just a moment, but when you look at the numbers and you look at what is happening to families across this country, we need a new direction. We need a new direction. We need to create a new set of priorities based on a different set of values that put Americans first—American businesses and American workers.

What I see happening in this country is a willingness by the President and those in charge of Congress to accept a race to the bottom in a global economy. Too many workers in my State have been told: If you only work for less, pay more in health care, and lose your pension, we can be successful. That is a lose-lose strategy. First of all, there is always going to be somebody in another country who can work for less.

I don't want to win that race. Nobody in Michigan is interested in winning a race to the bottom. What we understand is that we need to do what America does best, which is make this a race to the top. In order to make it a race to the top, we have to have a level playing field on trade. We can compete with anybody if the rules are fair, if it is a level playing field. We have to change the way we fund health care and address health care costs for businesses and families. We have to change. We have to start passing legislation that addresses health care in a positive way, to truly bring down costs, not just shift them around but bring down costs in a real way and make health care available and affordable and support businesses and families.

We have to continue to say we are going to protect pensions. We did make a step forward in that area, and I am proud that we did that together.

Then we have to race like crazy on education and innovation. That is what we do in America. Let's race up. Let's make every other country race to keep up with us. Let's be the ones who are continuing to invest in education, in opportunity for every child, in opportunities for everybody to be able to go to college and focus on areas of math and science and technology and engineering and all of those things we need to do to make it a race up, areas of health research, creating new opportunities and new discoveries. That is what we do in America. That is what we have always done in America. But we have seen in the last 6 years a willingness to put that all aside for other priorities, put that all aside and make this a race to the bottom. That is not good enough.

We believe in a race to the top, and we know that is going to take a new direction. It is going to take a different set of priorities. It is going to take a different set of values to do that. But in a global economy, if we are going to keep our middle class, we have to do that.

We are in a fight for our way of life in this country. It is not going to do any good if a few people have a lot of money if the average person has no money in their pocket to be able to buy that house, that car, send the kids to college, get the boat, and be able to enjoy the beautiful lakes in Michigan, be able to buy their medication. It is not going to matter if everybody is being asked to race to the bottom.

So I am hopeful—in fact, insistent—that we turn things around. America can do better. We need a new direction. We need a race to the top. We can do this. It just takes people who get it, people who get it to be in charge with the right values and the right priorities, and Americans are expecting that to happen. In fact, they are tired of waiting for it to happen. And so am I.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Rhode Island.

Mr. REED. Madam President, I am very pleased to join my colleague, Senator STABENOW, and my colleague, Senator SARBANES, to talk about the reality that is confronting the American family across the country. That reality is, they are being squeezed, and they are feeling every day increased pressure from an economy that is not resulting in higher wages and income but is demonstrating increased costs to every family in the country. Between flat, stagnant incomes and increasing costs, they are seeing their dreams shredded.

It is our obligation, our duty to respond. This administration has not responded. The President tries to paint a rosy picture of the economy, but the American people know better because every day they see the high gasoline prices, and increased costs of education. They look at their paychecks and see no significant increases. And they wonder, really, for the first time in my lifetime, whether their children will have a better life than they enjoyed.

It was taken as an article of faith in America when I was growing up in the 1950s and 1960s that your children would do better than you did. They are probably going to college, if you hadn't gone to college. If you were fortunate to be a college-educated person, they certainly would go to college and maybe on to professional school beyond. They would be able to enjoy a home in a good community. They would be able to use their talents and their energies to provide for their families and to build a strong America. But, again, for the first time in generations, many, many people are wondering whether their children will be able to afford what they did, and be able to accomplish what they have done. Can they afford a home in the same community they grew up in? In many cases, that is not true in America today. Will they have a pension that they can depend on when they get older 40 or 50 years from now? Will they have the ability to send themselves to school, to educate themselves, not just through college but throughout their lifetime?

This is not something that is just the impersonal effect of the world economy and globalization. This is something that Government has a duty to respond to, and this administration has not responded to it.

The facts are very clear. After adjusting for inflation, the income of the typical family is lower than it was when President Bush took office. The typical family has fallen behind in the last 6 years. The economy has gone through the most protracted job slump since the Great Depression. Even though job creation has turned positive, the pace of job creation has been modest and real wages are not growing.

The administration likes to point to statistics that show an increase in average income or compensation. But it seems pretty clear that these averages reflect gains by highly compensated individuals who receive bonuses, who exercise stock options, while ordinary workers see their wages falling behind with rising living costs.

When you talk about an average, if you have a lot of poor people and you have several highly compensated individuals, that average moves up. That is what the President is talking about.

What we should be looking at is, how do we help those low-income Americans see more in their paychecks? How do we help them protect against rising prices in so many critical areas?

This first chart demonstrates what has happened between 2000 and 2004. This is the median inflation-adjusted household income. This is the centerpoint of households in the U.S., 50 percent below, 50 percent above. So

it takes away the distorting effect of a few, a handful of terribly wealthy households in the country. This is the most accurate view of what has been happening. You can see in 2004, the median income was $47,399; in 2005, in inflation-adjusted terms, $46,326, a fall of $1,273. Median household incomes fell. That is not the sign of a good economy. In fact, that is the sign of a failing economy.

This is accompanied by another phenomenon. The second phenomenon is that prices are increasing. In fact, they are rising dramatically in critical areas.

This is a chart that shows the middle-class squeeze under the Bush administration. College tuition, room and board, up 44 percent; households have $1,300 less at the median; their expenses for college are going up 44 percent. Health insurance premiums, if you can afford them or you have access to health insurance at all, because there is a growing number of Americans who can't buy health insurance; those premiums are going up 71 percent.

Gasoline prices, up by 104 percent. Even in the last few weeks of lower prices, they are still extraordinarily high given the prices in 2000.

What you have seen is a situation—this is just arithmetic—income goes down, costs go up, families are squeezed. They have to put on hold a lot of their dreams and hopes for the future—for college, in some cases. They have to worry about whether they will be destroyed financially by a health care crisis at home because they cannot afford health care coverage.

Certainly we are all seeing throughout the economy how expensive it is just to get around because of the price of gasoline. For upper income Americans, the people who are certainly above the median income, this is a problem. For the vast majority of Americans, low-income Americans, the extra $10 or $15 per fillup means they cannot take the kids out for even a modest meal. They can't do things that they took for granted. They certainly cannot save.

One of the other phenomenons we have seen is virtually a zero savings rate for households in the country. They are not getting ahead.

I can recall—I think we all can recall as children—when parents talked about trying to get ahead, trying to get a little bit ahead, something that will give them not only some financial security but peace of mind. For some families in the last 6 years they are not only not getting ahead but they are falling behind. It is not predestined; it is not inevitable. It is because of the policies of this administration.

One of other startling aspects of the Bush administration is that employment has not grown. This is a chart showing the growth of nonfarm employment throughout administrations in the country going back to Herbert Hoover. The Bush administration has the worst nonfarm employment growth of any administration since Herbert Hoover. That is not a comparison anyone would like to entertain.

We have seen it go up and down through administrations, but this is the worst. Under the Clinton administration, there was a 2.4 percent per year growth in nonfarm employment. That has been reversing.

This is a situation where people are looking around, again despite all the happy talk of the administration, people just have to look around. The jobs are going away and they are not coming back. Pick up the paper. About every day you see a big American company announcing 20,000 jobs being let go, changes, restructuring, et cetera. That causes people great concern.

Again, we have to do something, and nothing of consequence is being done by this administration. It is the worst job record since Herbert Hoover.

That is a damning epitaph for the economic policies of this administration.

Coupled with the anemic job growth has been a similar anemic growth in earnings. Here again is a comparison. Between 1995 and 2000, under the Clinton administration, and between 2000 and 2005 under the Bush administration. What you see in the Clinton administration is a strong growth in earnings, weekly earnings, for every category of worker, from the lowest to the highest.

In fact, I should point out that the highest-income Americans did much better under the Clinton administration than they are doing under this administration. But what is startling is that this picket fence of the Clinton administration of growth in every income level, strong positive growth, is not the case in the Bush administration. In fact, in the lowest 10 percent you are seeing negative growth, a loss in terms of weekly earnings. The poorest Americans are not only not keeping up, they are falling behind. It is not just at the bottom, it is all the way up to the 50th percentile. Half of American full-time workers have seen a loss in the last 5 years in their usual weekly earnings. They are losing ground, and they know it. They are not getting ahead. They are falling behind.

You see at the upper income levels a slight increase. It was much, much better under the Clinton administration.

One of the ironies here is that the economic policy, relatively speaking, is benefiting the wealthiest Americans, but it is not benefiting them as much as under the Clinton administration.

Again, these are weekly earnings. This figure would be much, much different if we put in all forms of compensation. There you are seeing even a more pronounced view of the upper income Americans because of stock bonuses, because of all sorts of compensation that is not in the form of weekly earnings.

Mr. SARBANES. Madam President, will the Senator yield?

Mr. REED. I would be happy to yield to the Senator.

Mr. SARBANES. If I understand that chart correctly, the people up to the 50th percentile in the last 5 years have actually fallen behind. They have not had an increase, they actually have had a decrease in their real weekly earnings. Is that correct?

Mr. REED. That is absolutely correct.

Mr. SARBANES. Then beyond that, while there has been some increase, it is far less than what occurred in the previous 5 years of the Clinton administration? Is that right?

Mr. REED. That is right.

Mr. SARBANES. Of course, that helps to explain what people are thinking about the economy. I know our distinguished colleague from Michigan talked earlier about the increase in health care costs, the increase in tuition costs, education costs, and the increase in energy costs. That is one side of the squeeze on the middle class and working America. But this is the other side of the squeeze on the middle and working Americans. They are being squeezed down in their earnings and they are being squeezed from the other direction by the increase in costs. So they are really caught in a vise. Their income is not as good and key costs are going up—and at a rather rapid rate. Will the Senator agree with that?

Mr. REED. The Senator is right. It is absolutely a phenomenon between being crushed by falling real income and rising costs. It is not a situation where incomes are falling and being compensated by falling prices. It is a situation where they are being caught in this vice. The pain is palpable to working families throughout this country. These are all of our citizens. These are the people we all say we are here to help. And we are not helping them—not this Congress, not this administration. Not only are we not helping these individuals but it turns out the very policies of this administration and this Congress are rewarding those people who are doing the best, not those who need the assistance. That is evident in the tax policy being pursued by this administration and supported by this Republican Congress.

This is the average amount of capital gains and dividend tax cuts by household incomes in 2005. This is one of the centerpieces of the administration's proposal. They have to cut capital gains taxes. They have to cut dividend taxes. Here is where the benefits go. If you make under $50,000—that is an awful lot of Americans—you get $6 in benefits If a person is making between $50,000 and $100,000—most Americans within that range are considered to be pretty prosperous folks—they get $55 in benefits. If a person makes over $1 million, they get $37,000 in benefits. One of the reasons for this is the fact that most working Americans, if they hold stock, they hold it in their retirement accounts. These retirement accounts do not benefit directly from these capital gains and dividends tax cuts. So

for the vast majority of Americans, we are seeing virtually no direct benefit from these capital gains and dividends tax cuts. Of course, for the wealthiest, it is a bonanza.

Now, if this somehow stimulated a huge spurt in economic activity, growth, job performance, and increased employment, that might be a justification—not the most compelling, but a justification. We are not even seeing that.

What we are seeing—because, again, ultimately this is about arithmetic as much as anything—we are seeing a decrease in the resources and revenues of the Federal Government. So we can't compensate for increased cost of tuition. In fact, this administration, as the Senator from Michigan suggested, is sending up a budget that has record cuts in Pell grants and Stafford loans and those supports for education that are so critical at a time when everyone reflexively says we have to be the best educated country in the world because we must compete today with an emerging India and an emerging China.

We can no longer sit back on our laurels saying we have the best educated people. We have to keep investing in education. We have dissipated those resources in a way that does not benefit the vast majority of Americans but benefits very few. As a result, not only are the costs of education going up, but our Federal support for education is going down.

I should say something else, too. The last several weeks the, President hasn't missed an opportunity to remind the American people that we are at war. We are. And we have to support our forces in the field. I saw a figure today that to keep an Army division in operation in Iraq for 1 month costs $1.5 billion. Those costs have to be met.

With the tax policy rewarding the wealthiest Americans without benefiting the rest of America, without contributing in a demonstrable way to significantly increase employment, without contributing to supports and programs so essential to investments for the future of this country, we are not only dissipating our resources, we have also engaged in an international policy that requires spending that is very difficult to avoid, nigh impossible. Who is bearing the burden? It is all being rolled into the next generation of Americans as we accumulate a huge amount of debt going forward.

This is the most reckless economic policy I have ever seen. It is ''credit card economics,'' borrow as much as you can to fund military operations abroad, but we cannot afford domestic programs. What resources we have we give away in the form of tax cuts that are not strengthening the economy.

It is a massive shift of resources from the vast majority of Americans to the wealthiest Americans; from a generation in the future that will pay for it, to a generation today that seems to be consuming it.

Ultimately, these policies will catch up with us. They have already caught up with the families of America. As we debate these issues today, they are looking at sticker shock in health care, education, at the gas pumps, and housing. And they are looking at their stagnant paychecks.

Not only can we do better, we must do better. This Government has in the past been able to sort these problems out. We have a record over the last 5 years of the preceding decade of growth across the board in terms of income at robust levels, of significant employment gains, of fiscal responsibility. All of that today is history.

Mr. SARBANES. Will the Senator yield?

Mr. REED. I yield.

Mr. SARBANES. As I understand it, we have had this tremendous runup in the debt. We are just saddling this burden on the next generations.

One of the things that has happened and needs to be underscored, at least as I am informed, is that the amount of the debt that we are borrowing from overseas has escalated tremendously. In fact, we have borrowed more from overseas—in other words, foreign-held debt—under President George W. Bush than all of the previous Presidents combined.

It is not only that we are incurring the debt and the problems that go with that in terms of the future burden, but more of that debt is being held externally by people overseas rather than being held internally. Before, we were paying it to ourselves. It meant working people were paying money to people who held the Government bonds, but at least it was all within the country. Now there is a tremendous tariff on working people to send this money overseas to the debt that is being held abroad.

Isn't that the case?

Mr. REED. That is absolutely right. The Senator is right.

We have extraordinary debt being held by countries such as China. Even Mexico is a creditor of the United States today. That debt has to be serviced. That money goes overseas. It is not kept within the United States for investment here.

It also not only economically weakens us, it puts us into a position internationally where we do not have the kind of leverage we used to have when we were an economic power that did not have these huge debt burdens, and we did not rely upon the kindness of strangers. We are relying on the kindness of lots of countries who, sometimes, are not our friends.

We can see that manifested in situations such as our relations with North Korea, China and our relationship with Iran. The Senator is a senior member of the Foreign Relations Committee. We are struggling now to control the Iranians' race for nuclear technology. A key player is the Chinese. We cannot push them hard to take a tough line, in some cases because they hold a lot of our debt. That is a reality not only economically but also in terms of international affairs.

Mr. SARBANES. If the Senator will yield, as the Senator points out, we have become dependent, as Tennessee Williams said, on ''the kindness of strangers.''

On the one hand, we say we are the world's superpower. In many respects, that is quite true. However, economically, the foundations are weakening. They are not as solid and as strong as they once were.

In the last years of the Clinton administration we were running surpluses and paying down the debt. The Bush administration came in and made these very excessive tax cuts at a time when we moved into a war footing. We have never done that before in this country. When we have gone into a war footing we have always concerned ourselves with how to meet the budgetary demands of the war. That did not happen here. All of a sudden we have switched from running surpluses to running these large deficits, year after year after year. The projections are that they will go out into the future as far as the eye can see.

The Bush people say: We will lower the deficit a little bit. As long as we are running the deficit, we are still building up the debt. We are adding to the debt every step of the way. As we noted previously in our discussion, more and more of that debt is being held overseas. To the extent that happens, we are subject to the kind of leverage that others have.

The United States has gone from being the world's largest creditor nation; now we are the world's largest debtor nation.

Mr. REED. The Senator is absolutely right. He realizes, as I do, when the Bush administration came into power, we were running a surplus. We had a projected surplus over several years in the trillions of dollars, an opportunity to do lots of critical and important tasks for America: to try to reform our health care system which will require not only changes in rules, regulations, and procedures, but probably additional resources; to try to reinvigorate public education at the elementary and secondary level and try to make college more affordable. These were investment goals. At that juncture we had the resources to do it.

The Senator listened, as I did, to proposals which we thought were fanciful: the suggestion that if we did not cut taxes, our surplus would grow so great it would be unmanageable. What has grown so great and what is unmanageable now is not a surplus but a deficit.

The Senator also recognizes, as we look ahead and as we see this continued deficit finance and growing debt, there are structural issues which will drive the deficit further. For example, we have to somehow come to grips with a longer term solution to the alternative minimum tax which will take additional revenues and resources away from the Federal Government.

There are proposals, and we have heard them, of a full-scale repeal of the

estate tax. Again, that would be an additional denial of revenues and resources to the Government at a time when we are running a huge deficit and we are fighting a war.

All this adds up to what the Senator pointed out: not only annual deficits but a hugely increasing debt funded by foreigners, leaving us vulnerable not only to economic shocks but also to the fact, as the Senator suggested, that we are dependent. Dependency, in many respects, is the opposite of strength. We have surrendered a great deal of economic strength through these policies.

The bottom line of this discussion is that this is not some theoretical macroeconomic research topic. This is reflected in the daily lives of Americans who are struggling, and in the future they are seeing every day a decreasing sense of confidence that they can provide their sons and daughters at least as good a quality of economic life, family life, and support as they have enjoyed. That is distressing the American public.

Mr. SARBANES. If the Senator will yield, furthermore, we have an opportunity to strengthen the economy in so many ways, including addressing the Social Security system which can be done with a number of relatively sensible steps.

The Bush administration, of course, has been pressing this privatization. For the moment, they have been beaten back on that and people are turning their attention elsewhere, but it is very clear they have not given up.

The President, at the end of June, said:

> If we can't get it done this year I'm going to try next year. And if we can't get it done next year, I'm going to try the year after that.

The majority leader in the House of Representatives says:

> If I'm around in a leadership role come January [this coming January], we're going to get serious about it [privatizing of Social Security].

And the chairman of the House Ways and Means Subcommittee on Social Security said that privatization would be a top priority in the Congress in 2007.

The American people have to understand this is still very much on the agenda of this administration and its supporters.

Now they want to abolish the estate tax. Why not keep the estate tax and devote the revenues from the estate tax to strengthening the Social Security system? Then there would be a better retirement for everybody.

Mr. REED. Well, I think the Senator has a very valid point about Social Security, that, yes, you are right, from what I read into those comments, the President and the Republicans in the House of Representatives are committed to, once again, going after Social Security. It seems to me to be contradictory to everything that Americans are experiencing today.

The one phenomenon that is frightening everyone is the loss of defined benefit pensions, left and right. Thinking back to when I was beginning to enter the workforce, in the 1960s and 1970s, if one of my colleagues had said: I have just taken a job as a machinist at United Airlines—you would say, you are set for life, just like your father was. You are going to work for 30 years, and you are going to retire with a nice pension and have benefits like health care. You, financially, are in a good position.

Now we are hearing stories about machinists' pensions being abrogated because of bankruptcy proceedings, companies that we took for granted as being solid trying to get rid of their pension liabilities. The only thing left for most Americans is Social Security.

Now, we hope they all have 401(k)s and private investments. But there is that credit card commercial about how something costs $50 and something costs $80, but at the end there is that priceless element. The priceless element, when it comes to pensions, is Social Security because at least you know every month you will get a certain amount of money, you will have something, you will know what it is. And that is worth a great deal because it gives a certain peace of mind. For most Americans, it is very modest, but at least it is something they can say they will have as long as they live.

This administration wants to eliminate that. They want to put every American into a market which has great ups, but also great downs. It has cycles where everyone is doing well and cycles where people are not doing very well at all.

That cannot be the bedrock of retirement. We have to maintain Social Security. So it is shocking to me that despite what America said over the last several months—essentially, take your hands off my Social Security—this administration is going to try again.

And, of course, there are ways we can fund Social Security. I think we did that under the leadership of you and your colleagues in the 1980s, where changes were made to the formulas, changes were made to the rates of taxation, changes were made to strengthen Social Security.

They are not interested, I think, in strengthening it because their objective is not making sure that American families have something to rest their dreams on in retirement. This is, in some respects, simply another example of catering to the market, of letting these investments be turned over to private markets. And there is some advantage to that, but not fundamentally with respect to Social Security.

I am afraid we are going to have to fight this fight again.

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

Mr. REED. Yes.

Mr. SARBANES. In fact, the administration states the problem in such a way I think to sort of panic people, and then use that panic to push them toward the privatization of the Social Security system.

For example, the administration says the Social Security system is bankrupt. The Social Security system is not bankrupt. The Social Security system, at the moment, is taking in more money than it pays out in the trust fund. Of course, the administration then borrows that money to cover its deficits. That is a separate issue. But there is more flowing into the system than is flowing out. That will last until about 2020.

After that, they will start paying out more than flows into the fund, so they will start drawing down the fund. And they can continue to pay out all the benefits until 2046—in other words, 40 years from now, under the projections; of course, the projections are all problematic because it depends a lot on how the economy functions—but under their best projections, before they draw the fund down. At that point, they will still be able to pay 75 to 80 percent of the benefits from what is coming in to the Social Security trust fund. So the worst scenario is a 20- to 25-percent shortfall 40 years from now.

Now, there are many things you can do now, next year, the year after, with an administration that really wants to support the Social Security system, to take care of that problem. The magnitude of that problem is not out of bounds in terms of being able to address it.

But it has been dramatized as though it is an immediate crisis I think to sort of help scare and panic the American people and then have them be more open to these privatization proposals, which, as the able Senator from Rhode Island points out, would be to shift people from a guaranteed benefit—where they are told, as they are with Social Security: You are going to get so much a month and that is guaranteed to you—to a defined contribution plan, where you do not know what you are going to get.

The people who worked at Enron and WorldCom thought they had wonderful retirements. They had these 401(k)s and everything—they thought they had company plans—they thought they had wonderful retirements, and they were going to be living quite well in their retirement years, and it all collapsed. But they still have——

Mr. REED. Social Security.

Mr. SARBANES. Their Social Security, with its guaranteed benefit every month. So at least they have that basic form. People need to understand how important Social Security is to more than half of Americans who get more than 50 percent of their retirement income from Social Security. And 20 percent of retired Americans get more than 90 percent of their retirement income from Social Security.

So Social Security is really essential to providing that base. In fact, it has helped to lift the seniors out of poverty. It used to be that the age group most in poverty was the elderly. Because of Social Security, essentially—and other things—but because of the

improvements we have made to it now, that is the age group least in poverty. So we have made a substantial change. But Social Security is essential to achieving that.

And I do not know why the administration put it out there. The country rejected it, clearly. And it was reflected by Members of Congress from both parties who said: No, no. And now they continue to talk about coming back to this issue and privatizing. They have not given up on privatizing the Social Security system.

Mr. REED. Well, I think the Senator is absolutely right in terms of his analysis. He has stated very eloquently and accurately about how many Americans depend upon Social Security; how, over the long term, it is a program that will be solvent—with no changes—for 20-plus years, and 50 years even if it is not paying full benefits.

Frankly, I cannot think of another Federal program where we can say we can guarantee 25 years from now you are going to get what we told you you are going to get. That is one of the few programs of the Federal Government that will do that.

I think the other point that should be made is that these actuarial assumptions are rather conservative. So this is not a situation where we are trying to, with smoke and mirrors, create an artificial picture of the funding stream going forward. And I have the same shock that you have, in a way, at these proposals because right now Social Security is even more important.

There was a period in our economic history, from the end of World War II up until fairly recently, where many Americans were looking at and anticipating not only their Social Security but a defined benefit private pension—a rather good private defined pension—and their private investments. Frankly, we all understand that the best retirement plan has, as a foundation, Social Security, but it is not only Social Security. It has to have private savings, private investments over time.

Sometimes—I am sure the Senator might have some of the same feelings I have—if we have all these proposals—benefiting the wealthiest Americans, why can't we give incentives for average Americans—more incentives—to save for their retirement, to put money away? We have some, but they are not enough. We can do that. But that is a conscious choice to favor, in this respect, the wealthiest over the vast majority of Americans.

I do not think it makes much sense in terms of economic policy, fiscal policy, and also social policy. But today we have seen those private pensions too often disappear. Today it is more important to maintain the defined benefit program of Social Security, and I hope we can.

But again, I say to the Senator, like you, I am concerned there is another movement afoot. Just listen to what the President says and what the chairman of the relevant subcommittee in the House and also the House majority leader say. If they get a chance, next year, they are going right back after Social Security, despite, as you point out, the rejection by the American people. And this was not some type of narrow, close call. Seniors, middle-income Americans—all Americans, I think—were standing up basically saying: This is not a sensible approach.

Mr. SARBANES. If the Senator will yield further, I think this does much to help explain the anxiety that Americans are feeling about the workings of their economy.

Now, as the Senator so ably showed earlier, working people are being pressed from two directions. Their wages are not going up to keep pace with inflation, and key costs are increasing. That is compounded by the fact that the retired people are in a state of anxiety because they are constantly being told: Social Security will not be there for you—although I think that is a false cry.

Furthermore, as the increase in educational costs indicates, younger people—not yet in the workforce but moving in that direction—see the opportunities for education and training not opening up but closing down. Senator STABENOW pointed out earlier, we have the most significant cuts in Federal aid to education that we have experienced since the Federal Government began to try to provide assistance in that area.

So through every age group, as they look at the situation, they find themselves being constrained, to deny them the opportunity—the young people—to get an education. Working people are being squeezed badly. And our retired citizens are kept in a constant state of agitation about the safety and the security of their retirement income.

I think that explains why you are getting all these articles now in the major periodicals and in the major newspapers about this sort of anxiety that is running through the society about the workings of our economy. And when they look at it, it is very clear what is happening: the benefits are all being—as that chart indicates—focused right up at the top of the income and wealth scale. And everyone else is left in a state where they are really quite concerned about their future.

Mr. REED. I think the Senator is absolutely right. I think what Americans are seeing is a bifurcated society. That is a fancy term for the haves and the have-nots. The haves are doing quite well.

I remember Warren Buffett once said: ''If this is class warfare, my class is winning.'' And it is not class warfare. What it is is a series of economic policies that are not creating the jobs, that are not creating circumstances so that those jobs provide growing compensation to workers, and then on top of that, developing tax policies which favor the very wealthy and do not do enough to help those who do need assistance. Then it is complicated further by budget policies that are undercutting education and health care. We are debating a cut to physicians in terms of their compensation which goes into the overall effect of the health care system.

One point I would make, in addition to this issue about education, is that one of the reasons we saw a spectacularly productive decade in the 1990s and previous decades is not because anything was done in the 1990s, it is because of the Pell grants and Stafford loans of the 1960s when Americans with talent and ambition could go to college. Twenty-five years later, they were inventing new products. They were developing new ways to develop and provide services. They were leading the world economy in every dimension—health care, business, all these things.

If we stop investing in education now, we will lurch along for a few years, but we will start slowing up in terms of momentum, and we will ask ourselves 20 years from now: Are we still the preeminent economy, the preeminent area of scientific research? And that is a question mark.

People understand that. I think it goes back to the point we have all tried to make, which is that these charts are illustrative of what is going on from a statistical and analytical point; but just ask the average family and they will say simply: My wages are stuck, my expenses are going up, I cannot provide for my children the way I thought I could, and I need help. We should be giving them help and we are not.

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

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

The bill clerk proceeded to call the roll.

Mr. CHAMBLISS. 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. CHAMBLISS. Mr. President, where are we at this point?

The PRESIDING OFFICER. Postcloture on the motion to proceed to H.R. 6061.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent to speak for up to 7 minutes.

The PRESIDING OFFICER. The Senator has that right.

Mr. CHAMBLISS. Mr. President, I rise today in support of H.R. 6061, the Secure Fence Act of 2006. As I traveled back home over the summer, particularly over the month of August, there was not a single issue I heard more of from my constituents, whether they were in the north Georgia mountains, vacationing on Georgia's coast, or working on farms in south Georgia, than illegal immigration. This is by far the most emotionally charged issue with which I have dealt during my 12 years in Congress.

Earlier this year, the American people watched as Congress debated how

to handle the growing crisis of illegal immigration. During that debate, there were a wide variety of views expressed regarding the best way to stop illegal immigration and how to address the presence of 15 to 20 million illegal aliens currently in the United States. However, there was one issue on which everybody agreed; that is, the need to secure our borders. This legislation we are considering today takes an important step in the right direction to do just that.

Securing the borders is not anti-immigrant. There is more to this debate than the presence of illegal immigrants. Securing our borders will stop illegal commercial activities, such as human trafficking and drug and weapons smuggling—the three most lucrative illegal commercial activities in the world. Human traffickers profit by exploiting people who seek to come to the United States to seek a better life for themselves and their families. It is estimated that 20,000 people are trafficked into the United States each year, primarily women and children. In addition, porous borders result in illegal drugs and weapons being smuggled into our country.

If drug and weapons smugglers can get cocaine and firearms into our country, what is to prevent them from bringing nuclear, chemical, or biological weapons across the border? It is an important national security matter for us to take the appropriate steps to gain operational control of our borders. We have all heard from our constituents and know they demand no more and deserve no less.

Earlier this year, when the Senate considered the comprehensive immigration reform bill, this body voted overwhelmingly to authorize construction of 370 miles of fencing and 500 miles of vehicle barriers along the southwest border. This totals almost 900 miles of barrier on that border. Late this summer, the Senate voted to fund the construction of fencing and barriers we previously authorized.

Some may ask: Why are we considering this legislation if the Senate has already considered something very similar? We all know Congress is not going to pass the comprehensive immigration reform bill before we leave. Passage of this bill will allow us to move forward with the process of getting these necessary tools in place to secure the border.

Finally, the American people have questions about the commitment of Congress when it comes to comprehensive immigration reform. Congress tried to sell this idea to them in 1986 when it said that we would allow all of those people who were here illegally to adjust their status. In exchange, we pledged to secure the border and have real interior enforcement. We all know what happened. Millions of people were allowed to obtain lawful permanent residence, but we did not secure our borders. Now 20 years later, some in Congress are trying to sell the same idea again, and the American people simply are not buying it, and rightfully so.

This bill will give Congress an opportunity to move in the direction of gaining the trust of the American people on the issue of immigration and allows us to prove to the American people that we are serious about securing our borders.

Once we have operational control of our borders and can know who is coming into and going out of the country, I think the American people will be more receptive to temporary guest worker programs. Once we have operational control of our borders, the American people will be willing to engage in a debate about whether we should increase the number of people our country accepts for permanent resident status each year. Until we have operational control of our borders, most people think we will simply have a repeat of the 1986 amnesty.

I don't believe a fence is a panacea, and I don't believe we need to build a fence across the entire stretch of our borders. However, we know fencing and vehicle barriers are effective border security tools. Combined with state-of-the-art technology, it is possible for us to gain control of our borders and then have a healthy, responsible debate about our Nation's immigration policies.

Mr. President, I yield the floor, and 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. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

## FEDERAL TAX GAP

Mr. BAUCUS. Mr. President, I have repeatedly raised the problem of the ever-growing Federal tax gap. What is that? The tax gap is the difference between taxes legally owed and taxes actually paid. That gap is $345 billion a year, and it is growing. That is right. Every year, about $345 billion in taxes legally owed is not paid—$345 billion a year.

One of the things that contributes significantly to the tax gap is confusion. Many taxpayers simply claim credits or deductions by mistake, and that error rate is about to get worse. As IRS Commissioner Everson pointed out in a Finance Committee hearing this month, the IRS and taxpayers will face unnecessary confusion and compliance errors if Congress does not finish its changes to the tax law soon. Taxpayers will face more mistakes and hassles if we do not extend the expired tax provisions soon. ''Soon'' means prior to October 15, according to Commissioner Everson.

If Congress does not reinstate the expired tax incentives before it recesses for the election, then the IRS will have to print tax forms for next year's filing season applying the law ''as is.'' That means reprint; more expense. The IRS will print the forms without the tax credit for U.S.-based research jobs, without the tax deduction for State sales taxes, without the tax credit for hiring welfare workers, and without the tax deductions for classroom supplies that teachers buy—without those deductions. That is what would have to be printed by the IRS.

If Congress does not extend these provisions by the end of next week, then the IRS will have to spend taxpayers' money to rush printing for supplemental documents to describe these incentives if and when Congress actually passes them.

Millions of families, businesses and workers utilize these popular tax incentives. These are not obscure tax benefits claimed on separate forms or schedules.

For example, look at the front page of the basic form 1040, which I have at my right. Look at line 23, right here, in the category ''adjusted gross income.'' That line 23 is labeled ''educator expenses.''

What should the IRS do with the classroom teachers' deduction? Look at line 34, right here: ''Tuition and fees deduction.'' What should the IRS do with the tuition deduction for middle-income families? They both expired at the end of 2005, so the IRS really cannot print them. It cannot do so on the 2006 tax form. It cannot print them because Congress has not extended those provisions.

But if the IRS does not print them on form 1040, and it cannot do so, how many teachers will miss out on this deduction? School started not too long ago this year. How many teachers will miss out if the IRS merely mentions the deduction in some supplementary instruction guide?

What about the millions of taxpayers who use software to assist in tax preparation? Those software providers have deadlines, too, and they have told us mid-October is their ''drop dead'' date, just as it is for the IRS. They will try to have their products in stores and on the shelves by Thanksgiving. That would be literally days after our lame duck session, when some believe that we should extend these benefits appearing on form 1040.

You might ask why these software providers cannot just send updates to customers. The providers tell us they cannot force the customer to receive the update. Millions of customers will miss the update; they just will not know about it. They will miss it. Millions of customers will ignore the update and millions will lose out.

Earlier this year the Finance Committee held an investigative hearing and looked at the ''free file'' alliances, which provide free electronics services to many taxpayers via the IRS Web site. The committee found many members of the ''free file'' alliance simply declined to include any of the Katrina-related tax benefits. Why? Because

Congress enacted those benefits into law so late in the year it simply was not feasible for providers to include them.

Delay has costs. Delay costs taxpayers money. Delay impairs the effective tax administration by the IRS.

I am again asking my colleagues to support my unanimous consent request to pass the negotiated tax extenders. If my amendment is agreed to, it will retroactively restore all those popular benefits. We are going to enact them, but the real cost and the irresponsibility will be if we don't pass them in the next couple of weeks but, rather, later on in the year when it will cause all these costs I just mentioned. My amendment will also provide the compromise reached on the Abandoned Mine Land trust fund, or AML.

We need these tax cuts. We cannot wait until the next tax period.

Mr. President, I do not see anybody on the floor who might object, except for the Presiding Officer. I guess he will object in his role of a Senator from his State.

UNANIMOUS-CONSENT REQUEST—H.R. 4096

Mr. President, I ask unanimous consent the Senate proceed to Calendar No. 326, H.R. 4096, that the Senate adopt my amendments numbered 5003 and 5004, which are the agreed-upon tax extender package, that this bill be read a third time and passed, the motion to reconsider be laid on the table, and all this occur without intervening action.

I repeat, Mr. President, before the Chair in his role as a Senator objects, because he has been instructed to do so by the majority party, I think it is extremely irresponsible for this body not to enact these extenders right away. As I stated, it is going to happen, so why put the American people through this unnecessary, ridiculous additional cost? Why can't we as a body just do what is right? What is right is to pass these extenders now before we recess in a couple of weeks. That is the right thing to do instead of all the games we have been playing around here. I wish those games would not be played. But, frankly, the party in control of this body has chosen to object to this request. I am very disappointed in the U.S. Senate for not doing what is right.

The PRESIDING OFFICER. In my capacity as a Senator from South Carolina, I object.

The Senator from Nevada.

Mr. REID. Mr. President, before my friend leaves the floor, I want to have the RECORD spread with my appreciation for who he is and how he has operated as a Member of Congress, first in the House of Representatives and now in the Senate. Our ranking member on the Finance Committee has been the chair of our Finance Committee, the chair of the Environment and Public Works Committee. The people of Montana are very fortunate to have him in their corner.

I appreciate his coming here, as the people of Montana and the people of Nevada want, with just commonsense legislation. This is going to pass. I cannot imagine that this legislative body would walk away from here and not pass this must-do legislation.

But I say I am of the opinion now that maybe this Republican Congress, which has been dubbed—not by me but by writers all over the country—as the most do-nothing Congress in the history of our Republic, I guess they want to make sure they don't lose that record as the most do-nothing Congress in history.

This is evidence of it. We sit here doing nothing all day today, doing nothing all day tomorrow, when there are important things to be accomplished.

Some of my colleagues were here earlier talking about the delicate balance we have in our economy. Housing all over the country is headed the wrong way. I have learned that highway construction and homebuilding are the two economic engines that drive our economy.

I am so disappointed, and I say that very seriously, that these important provisions have not been extended today. If we had an opportunity to vote on these it would be virtually unanimous, Democrats and Republicans, but we are not provided the ability to vote on this. I don't know why. Maybe they are trying to come up with some kind of an arrangement so that we will be forced to vote for it because, although it will have other things in it that we will not like, we will like this so much. That was tried once and it didn't work. The American people are too smart, and we speak for the American people.

Some things are so important. I have a niece. Her name is Lari, named after my father and brother. She struggled to get through school. She worked. She finally got to become a schoolteacher. She now teaches high school at Las Vegas High School, but she doesn't have much money.

She spends money out of her own pocket to buy school supplies. The school district should buy them but they don't. Under the provisions we are trying to extend, schoolteachers all over America can deduct up to $250 a year for school supplies they buy out of their own pocket.

Mr. President, $250 to my niece means a lot. It may not mean a lot to millionaires and all the people who benefited so much during this Republican administration, but to my niece it means a lot. She will not get that unless we put on these extenders.

Mr. BAUCUS. Will the Senator yield?

Mr. REID. I am happy to yield.

Mr. BAUCUS. I deeply appreciate the Senator's comments, but let me ask if the Senator heard, as I have, in a good number of companies, if these provisions are not enacted the companies are going to have to begin to restate their financials and take a charge against earnings because of the loss of the work opportunity tax credit and loss of the research and development tax credit.

I wonder if my good friend from Nevada has heard that, learned that, and what he might tell us the consequences of that might be when a company has to take a charge because of the failure of the other side of the aisle to let this provision pass, which we all know is going to pass.

Mr. REID. I say to my friend, I received a call before the last recess from the chair of the Business Roundtable. This is a group composed of Democrats and Republicans but, frankly, more Republicans than Democrats, and they represent the American business community. The chairman of that group said something to me. I asked him, Of all these provisions, which is the most important? And he said, We only care about one: the research and development tax credit has to pass. It is so important to the American business community. If we don't have that, it is going to have a tremendously detrimental effect on business.

We have not done it.

So I say to my friend, there are so many problems and he has outlined them very clearly. I listened to my friend—I just saw him walk through here—the chairman of the committee.

Mr. BAUCUS. He wants to do what I am suggesting.

Mr. REID. He made a wonderful statement. He said, Why should the Federal Government have to pay extra money for what we aren't doing?

Mr. BAUCUS. Right.

Mr. REID. They are waiting, as you indicated. They need to prepare these forms. It costs money to do this. In my State—it is different than your State—we pay a very large sales tax. In your State you don't have a sales tax, you have an income tax.

Mr. BAUCUS. Correct.

Mr. REID. You get a deduction. There are 12 million families in States without a State income tax, and they are not going to have the benefit of that—12 million families.

I talked to my friend—I don't think he would be embarrassed if I mentioned his name—Steve Wynn, who is one of America's great businessmen. He has done so much for Las Vegas. He is a modern business giant. He comes up with new ideas. His hotels are magnificent.

He called me up about a situation today. I am trying to work it through the last few days of this session. We have a Republican in the House and a Republican in the Senate who are fighting over a bill. He didn't know who. He thought one of them was a Democrat. I said, No, these are two Republicans fighting over this. He said, That's the way it always is, HARRY.

I said, Steve, I'm sorry to say you are right. What do you think the American people think of this?

We mentioned just a few things. I again mentioned my little niece, the schoolteacher and the $250. To us, we get a big fat salary, we Members of Congress, and all the tax cuts the administration passed on. They don't

care about my niece; $250, what does it mean to them? To her it means a lot. What do the American people think we are doing here? These provisions have to be passed.

Mr. BAUCUS. I thank my friend very much.

Mr. REID. I so appreciate your leadership. I have never come to this floor, ever, and criticized the chairman of the Finance Committee. I can't say that about other chairmen, but I have never criticized the farmer from Iowa, because he has a heart of gold. He can be very tough and hard. But he has been saying everything he can publicly that has supported our position. I hope the majority will allow this most important piece of legislation to come before it.

Mr. BAUCUS. I appreciate that. The chairman of the Finance Committee more than anything else wants to do what is right. He doesn't like to get involved in politics. That is what the American people want, not to get involved in politics, but to do what is right. That is why they should listen to the chairman who very much agrees with what you have talked about here.

Mr. REID. I am sorry to talk about my niece so much. Her name is Lari Dawn. She is named after my dad and my brother, Larry. We love Lari Dawn. But she is one of 3.3 million teachers who are forced to reach into their own pockets to provide supplies for their students. They are going to lose that. Again, that doesn't sound like much, but for the American people they get their money's worth for every Lari Dawn of the world who is out there trying to educate their children. For the 3.3 million teachers and the head of the Business Roundtable, all aspects of our society benefit from this legislation.

Again, I express my appreciation to the Senator from Montana.

I suggest the absence of a quorum.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. DEMINT. Mr. President, I ask unanimous consent that the pending business be set aside.

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

Mr. DEMINT. Mr. President, I just had the unfortunate experience of being trapped in the Presiding Officer's chair as some of my Democratic colleagues presented a sad scenario of how Republicans had not taken up an important bill that would continue important tax credits for Americans and American businesses. Unfortunately, they failed to admit that we all had a chance to vote on that bill only a couple of weeks ago when Republicans, attempting to work with Democrats, brought all of these ''tax extenders,'' as we call them, to the floor, along with the increase in the minimum wage, which our Democratic colleagues had spoken so often for, and a reform of the death tax, a compromise plan to tax only the larger estates in this country. We put this together in order to try to move some business through the Senate—a very important piece of legislation that we called the Family Prosperity Act because, indeed, that is exactly what it was.

All of us were amazed at how our Democratic colleagues came to the floor and found one excuse after another why we could not vote for this important piece of legislation that would have given the tax credits for schoolteachers who buy supplies, it would have given some breaks to middle-class families who are faced with the death tax on their farm or family business, and it certainly would have given low and minimum wage workers the increase that we talked about for years. Yet the Democrats, which has been their form for month after month—in fact, during my entire time here in the Senate—when we bring something important to this floor, the Democrats block it. Then, as they did today, they come down and attempt to blame Republicans for the bill not getting passed.

I think it is important for the American people to know the truth, particularly as we head toward elections. The tax credits which are so important to America were brought to the floor by the Republicans, with a good compromise package, with an honest attempt to work with Democrats on several important issues. The Democrats to a person unanimously voted against this bill. Now they are here trying to blame Republicans.

I think it is important that we set the record straight. I intend to be a part of doing that as we try to end this session in a productive way next week.

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. THUNE. 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. THUNE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the motion to proceed. We are in a postcloture period, having invoked cloture, 94 to 0.

Mr. THUNE. I ask unanimous consent to speak as in morning business.

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

## ALTERNATIVE ENERGY FUEL GRANT PROGRAM

Mr. THUNE. Mr. President, on July 24, the House of Representatives overwhelmingly passed H.R. 5534 by a vote of 355 to 9. This bipartisan legislation seeks to provide grants, not to exceed $30,000, to assist gas station owners and other eligible entities who install alternative fuels such as biodiesel, natural gas and E85 ethanol.

As all of my colleagues know, the American public has been calling on Congress to address our Nation's overdependence upon foreign sources of energy. Senator SALAZAR from Colorado and I have a bipartisan substitute to the House-passed bill that is currently being held in the Senate at the desk. The substitute has been cleared by the relative committees, as well as by my colleagues on this side of the aisle; however, for some unknown reason, some of my Democratic colleagues have placed secret holds on this very noncontroversial bill.

The Thune-Salazar substitute has the support of the U.S. Automakers Alliance, alternative energy groups, and environmental organizations that have called upon Congress to increase the availability of alternative fuels.

I ask unanimous consent to have printed in the RECORD letters from the Alliance of Auto Manufacturers, which includes BMW Group, DaimlerChrysler, Ford Motor Company, General Motors, Mazda, Mitsubishi, Porsche, Toyota, and Volkswagen.

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

ALLIANCE OF AUTOMOBILE MANUFACTURERS,
*September 14, 2006.*

Hon. DANIEL AKAKA,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR AKAKA: I am writing in support of legislation authored by Senators THUNE and SALAZAR that seeks to expand our Nation's alternative fueling infrastructure through the use of CAFE program fines. Automakers urge the Senate to adopt this legislation prior to adjournment.

As our Nation works toward energy independence, automakers support a diverse mix of fuels to power our transportation sector. To date, automakers are proud to report that there are over nine million alternative fuel and advanced technology vehicles on America's roads. These vehicles are powered by E–85 (ethanol), clean diesel, gasoline-electric hybrid engines, as well as other emerging technologies that improve mileage and reduce our dependency on foreign oil.

However, the infrastructure to refuel vehicles capable of running on ethanol is woefully inadequate. Currently, only about 830 of the 170,000 gasoline stations in America offer E–85 for sale. Expanding availability of this, and other renewable, domestic fuel sources, can help reduce our dependence on imported petroleum.

The Thune-Salazar legislation would create an Energy Security Fund within the Department of the Treasury. The Fund would use moneys collected from CAFE program fines and penalties toward a grant program for investment in alternative fuel infrastructure. Furthermore, the Thune-Salazar proposal is similar to legislation that passed earlier this year in the House by a vote of 355–9.

Automakers support this legislation as sound public policy to spur development of an infrastructure for the distribution of alternative fuels. It is an important piece of legislation that deserves passage before the Senate concludes its business for the year.

Sincerely,

FREDERICK L. WEBBER,
*President & CEO.*

Mr. THUNE. I ask unanimous consent to have printed in the RECORD letters from the National Ethanol Vehicle Coalition and the National Association of Convenience Stores, representing the fuel retailers across this country.

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

NATIONAL ASSOCIATION OF CONVENIENCE STORES,
*Alexandria, VA, August 3, 2006.*

Hon. JOHN THUNE,
*U.S. Senate*
*Washington, DC.*
Hon. KEN SALAZAR,
*U.S. Senate*
*Washington, DC.*

DEAR SENATORS THUNE AND SALAZAR: On behalf of the 2,200 retail member companies of the National Association of Convenience Stores (NACS), I would like to commend you for your dedication to promoting a more stable motor fuels market for America's consumers and for recognizing the challenges that face the nation's motor fuels retailers with the introduction of alternative fuel products.

As you know, many of the alternative fuels available today have chemical properties that necessitate certain adjustments to the current distribution and storage infrastructure. These adjustments can cost substantial amounts. For example, to accommodate the alternative fuel E–85, many retailers must either retrofit existing underground storage tank systems or install new systems. This can be extremely costly, ranging from $40,000 to more than $200,000 in some markets. Therefore, NACS supports your amendment that will provide additional funding through the Clean Cities Program for alternative fuel infrastructure grants.

It is important to note, however, that while these infrastructure grant programs will help offset the cost of converting a retail facility to accommodate an alternative fuel, there are other factors a retailer must consider before making such an investment. These include whether there is the physical capacity to store and dispense an additional fuel product without compromising the availability of traditional fuels, whether the level of consumer demand for the alternative fuel justifies the investment, and whether the alternative fuel can be offered for sale at a price that is competitive with traditional fuels on a miles per dollar basis. These considerations will be determined by individual retailers based upon conditions within their own markets.

The underlying bill, H.R. 5534, was recently approved by the House of Representatives by a vote of 355–9. Your amendment, which seeks to balance competing priorities to increase the likelihood that the proposed ''Energy Security Fund'' will be signed into law, will facilitate the introduction of alternative fuels to the marketplace by addressing one of the major challenges facing petroleum retailers. NACS applauds your efforts to help address the costs associated with alternative fuels infrastructure. Thank you for your continued support of the nation's convenience and petroleum retailers.

Sincerely,

JOHN EICHBERGER,
*Vice President, Government Relations.*

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NATIONAL ETHANOL VEHICLE COALITION,
*Jefferson City, MO, August 9, 2006.*

Hon. JOHN THUNE.
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR THUNE: As you know, the National Ethanol Vehicle Coalition (NEVC) promotes the use of 85 percent ethanol (E85) as a renewable, alternative transportation fuel. Our membership comprises a wide array of interests including ethanol producers, automakers, and health and agricultural organizations—all of which are working together to increase deployment of E85 refueling infrastructure nationally.

I am writing to express our support for the Senate version of H.R. 5534, legislation to establish a federal grant program for alternative fuel infrastructure. Your proposal incorporates an idea originally put forth by the NEVC to use penalties collected from the Corporate Average Fuel Economy (CAFE) program to promote alternative transportation fuels. This legislation would advance both the NEVC's efforts to make E85 a viable transportation fuel nationally and the CAFE program's explicit goal of reducing energy consumption by cars and light trucks.

We also understand the Secretary of Energy would have broad authority to allocate grants authorized under this bill and that the sponsors intend for the Department of Energy to maximize its benefit for the driving public. Unfortunately, the legislation does not prioritize funding for the most viable and prevalent alternative fuels or include any requirements for grant recipients to market or even sell these fuels. Without such clarification, it remains unclear how much funding will go towards deployment of E85 and how many E85 pumps will be placed in service. Therefore, we believe it essential for Congress to provide dedicated funding for E85 national deployment in Fiscal Year 2007.

We appreciate your understanding of the important role the NEVC plays in providing critical technical and marketing assistance and we look forward to continuing to work with you to expand the use of alternative transportation fuels, particularly E85.

Sincerely,

PHILLIP J. LAMPERT,
*Executive Director.*

Mr. THUNE. Mr. President, simply put, our substitute has no budgetary score and simply authorizes future appropriations for the annual penalties collected each year from foreign automakers who violate CAFE standards.

I hope my colleagues on the other side of the aisle will work with Senator SALAZAR and me to clear this important measure. The House has agreed to take up and pass the Thune-Salazar substitute once it clears our Chamber, allowing the bill to be sent to the President for his signature. In light of the very clear message from the American people that they want Congress to do more to increase the availability of alternative fuels, I hope my colleagues drop any objections they have so this measure can be passed by the Senate.

If we look at the state of the renewable fuel industry today and the state of our energy situation in this country, it is very clear that we need to be doing more to promote the use of alternative energy and renewable fuels.

If you look at the Energy bill that was passed last summer, it included a renewable fuels standard for the first time ever as a matter of policy for this country. We have in law a requirement that a certain amount of renewable fuel—ethanol and other types of bioenergy—be used. Now, that creates a market for ethanol.

We also have on the other side, on the production side, a lot of ethanol plants either currently in production or under construction. In fact, back in my State of South Dakota, we have 11 ethanol plants and 3 others under construction. In just a few short months from now we will be somewhere around a billion gallons of ethanol produced annually.

So we have the production side of it. Our ethanol production is gearing up. We have the market now, the renewable fuels standard we passed last year as a part of the Energy bill, which is something I think was long overdue and much needed in terms of our energy policy in this country.

What we have is a gap in the distribution system. We do not have enough retailers out there, convenience stores, filling stations, that make E–85 available at the pump. In fact, there are 180,000 fuel retailers in this country, and of those only about 600 make E–85 available at the pump.

So what we are talking about is dealing with what, in my view, is a real sort of gap in our system; that is, making all that production that is being brought on line available to consumers in this country who really want to buy and use alternative fuels but do not have access to them because fuel retailers across this country simply do not want to deal with the cost of installing the pumps.

So what this bill does, the Thune-Salazar bill, is provide up to $30,000. The cost for installing a new E–85 pump is considered to be somewhere between $40,000 and $200,000, depending on where you are in the country. But the simple fact is, we think this incentive will go a long way toward filling in that distribution gap so the ethanol production side of it, the supply side of it, can meet the demand; the demand being, of course, the renewable fuels standard we passed last year, as well as Americans' appetite for using renewable fuels and moving increasingly away from our dependence upon foreign sources of energy.

It makes perfect sense. We have an energy crisis in our country. People have reacted with extreme intensity toward $3-a-gallon gasoline. They want to see us take steps that will make America energy independent, that will provide American energy to meet the demands that we have out there in the marketplace, to continue to drive our economy, to provide fuel for those who travel long distances.

I will say, in my State of South Dakota, we are a predominantly agricultural State. We are a State that relies heavily upon tourism. We drive long distances. We are a big user of fuels to get to where we need to go, to get to our destinations—whether it is part of our economy to get to jobs, the marketplace, whether it is farmers in the field or ranchers, or whether it is, again, tourism, which is an important component in our State's economy.

For all these very obvious reasons, we need policies that will make renewable fuels more available to more people in this country. Today, as I said,

there is a point in that distribution system that has been closed off. We have the production over here, the ethanol plants under construction, and those that are already fully operating that are producing more and more ethanol. And we have, again, the demand side, consumers who want to use renewable energy. And we have the renewable fuels standard we passed last summer as part of our policy. There is now a requirement for many of our States to get in compliance with that policy.

What we are missing right now is at the fuel retailer level. This is an opportunity to address that, to do something that is meaningful about lessening our dependence upon foreign sources of energy, about using more American energy, and meeting what is a very serious need in our economy.

So, again, I would refer people to the letters I have included in the RECORD. We have auto manufacturers in this country that are increasingly—you see more and more production of E–85, or what they call flex-fuel vehicles, those vehicles that can use E–85. I have to say, our bill does not preclude other alternative sources of energy from the pumps being installed, from them offering other energy other than E–85.

But I think it is fair to say there is a growing demand in this country for E–85. There are more and more flex-fuel cars being manufactured in America today, as evident from the letter from the Alliance of Automobile Manufacturers. But all the car companies in this country are building more and more cars that are flex-fuel vehicles that could use E–85.

The simple fact is, they cannot get access to the fuel because it does not exist, because we do not have the number of pumps that are necessary out there to provide people in this country who want to use renewable energy and want to use E–85 the opportunity to do that.

In my State of South Dakota, we have E–85 pumps installed in most of the cities across the State. Where that has been true, the cost of E–85 is somewhere from 50 cents a gallon less to up to $1 a gallon less, in places such as Aberdeen, SD.

But the simple reality is, we could do a lot to help ease the pressure on fuel prices in this country. We could do a lot to lessen our dependence upon foreign sources of energy. We could do a lot to meet the demand that American consumers have for using renewable energy. But today we have this gap in the distribution system, and we need to address that.

This is such a straightforward piece of legislation. It is so clear and obvious that it is supported—broadly supported—with, as I said, a big bipartisan vote of 355 to 9 coming out of the House of Representatives. We have holds on it in the Senate. I do not know what those holds are. The rules of the Senate, obviously, preclude us from knowing who has holds on bills. I, urge and plead with my colleagues on the other side who are holding up this legislation to release those holds.

It is important. This is noncontroversial. It is broadly supported. It is very necessary if we are going to follow through on the commitment we made last summer in the renewable fuels standard we passed in the Energy bill to increase the use of renewable energy in this country.

We have the production out there. These plants are coming on line. We have car manufacturers that are making flex-fuel vehicles. We have a renewable fuels standard in place that requires usage of a certain amount of ethanol, renewable or E–85. We have consumers who I believe are very conscious of, again, lessening our dependence upon foreign sources of energy and supporting American-grown energy.

For all those reasons, this bill makes so much sense. I am at a loss to explain why anybody would put a hold on it. I understand there are lots of cross pressures in an election year, but I hope that will not get in the way of doing what is right for the country, following through on the commitment that was made last year in the Energy bill in the renewable fuels standard, to put in place the distribution system, the mechanism whereby people can have access to renewable energy, to ethanol, E–85, other types of alternative fuels that would be made available under this legislation by allowing these fuel retailers to install the pumps that are necessary to deliver it to the American people.

Again, as I said, I have a letter from the National Association of Convenience Stores which represents all the fuel retailers across the country. It is important this legislation move, that it not get bogged down, and it move before Congress adjourns at the end of next week for the elections this year.

I know my colleague from Colorado is here. He has been a great advocate and supporter of this legislation. I enjoyed very much the opportunity to work with him on this legislation. I think he is as frustrated as I am at some of the secret holds that have been put on this bill. But, again, I would urge my colleagues in this Chamber, and those on the other side who have been obstructing and stopping this from moving forward, to release those holds.

There may be other issues associated with this legislation that I am not aware of, but the reality is that this bill, on the merits, is broadly supported in both Chambers by both parties. It is a necessary part of our energy policy in this country. It is high time, for the good of the American people, that we get it passed.

The Senator from Colorado is here. I am sure he wants to take some time to speak to this issue. But I appreciate his support and hard work to get it to where we are today. I know he shares my interest in getting the holds released and being able to proceed forward.

So, Mr. President, I yield back my time to allow the Senator from Colorado to be heard.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I ask unanimous consent that immediately following my comments, Senator LEAHY be recognized for his comments on the pending business.

The PRESIDING OFFICER. Is there objection?

The Senator from Alabama.

Mr. SESSIONS. Mr. President, what is the pending business? Is there pending business, might I inquire?

The PRESIDING OFFICER. We are currently on the motion to proceed, on which cloture has been invoked.

Mr. SESSIONS. All right. Does the Senator know how long he might speak?

Mr. SALAZAR. Mr. President, I intend to speak for probably 10 minutes. And I don't know what my friend from Vermont planned on, how much time he will consume after my statement.

Mr. LEAHY. Mr. President, I tell my friends from Colorado and Alabama, I certainly would not consume more time than that.

Mr. SESSIONS. Well, Mr. President, I want to talk on a slightly different issue, so I would accept that and withdraw any objection.

Mr. LEAHY. I thank the Senator from Alabama.

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

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I thank my friend from Alabama and the Presiding Officer.

Mr. President, let me, at the outset, say that I very much appreciate the work we have done on the alternative fuels legislation that Senator THUNE and I have been sponsoring and advocating. I would hope it is legislation we can move forward to yet in this Congress. I think when we look at the issues that are confronting our world, from the issues of terrorism, to the issues of energy independence, there is an opportunity for us to do something significant that will move us down that track of energy independence.

Last year, in the passage of the 2005 Energy Policy Act, we acted together in a bipartisan way to move that legislation forward. I am hopeful the legislation Senator THUNE and I have been sponsoring will, in fact, be legislation that can, in fact, become law and reach the President's desk as a result of the work of this Congress. I appreciate his work and his advocacy in trying to find out where the problems lie with respect to this particular bill.

Mr. President, I would like to turn my attention and remarks to the border fencing bill, H.R. 6061, which is before the Senate today.

First, let me say that as I look at where we have gotten today with respect to immigration reform in this

Congress and here in America, we are now at the point where we are playing political games and gimmicks and tricks with what is a very important national security issue.

At the heart of the immigration reform debate, which has consumed so much of our time in this Senate and this country over the last year, we recognized it is in America's national security interests for us to develop a comprehensive immigration reform package. We recognized, as well, that we are a nation of laws, and as a nation of laws we should be enforcing our immigration laws in the United States of America. And, finally, we recognized there is a reality of 12 million undocumented workers who live somewhere in the shadows of this society and that we ought to move forward and create a realistic program that addresses those 12 million human beings who live in the United States of America today.

Yet somehow today we have gotten away from that comprehensive approach to immigration reform, to look at what is a 1-percent solution. It is a small part of the solution that we need to deal with for immigration reform. Yet it has been chosen that we move forward to discuss this issue because there are political agendas at stake. It is the House Republican leadership that has refused to go along with the comprehensive approach which President Bush and this Senate have advocated, which has resulted in us coming to the point where we are now talking about a fence-only bill to deal with this very complex issue of immigration reform which has gone unaddressed by this country and by this Congress decade after decade.

President Bush, himself, in his address on August 3, 2006—this year—said:

I'm going to talk today about comprehensive immigration reform.

This was just a month ago—6, probably 8 weeks ago, where he said:

I say comprehensive because unless you have all five pieces working together it's not going to work at all.

That was the President of the United States.

Earlier on, the President had said:

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

Again, this is President George Bush, former Governor of Texas, who has been working on this immigration issue for a long time. He, as President, reached that conclusion. He said:

An immigration reform bill needs to be comprehensive, because all elements of this problem must be addressed together, or none of them will be solved at all. Congress can pass a comprehensive bill for me to sign into law.

Unfortunately, we appear to be failing in getting a comprehensive immigration reform package to the President that he can sign. Instead, we have devolved to the point where there is a piece of legislation which the House of Representatives has passed which is a fence-only bill. This fence-only bill is only a very small part of the solution we face to this very complex problem.

From my point of view, it is a copout and a political gimmick being played on the people of the United States. Let me remind people that it was not so long ago that in this Chamber, by a large bipartisan majority, Democrats and Republicans came together and said we can pass a comprehensive immigration reform package that addresses the issues that the President and the country want to be addressed in immigration reform. It was a law-and-order bill, which we enacted out of this Senate. It was a bill that dealt in a straightforward manner with border security, with enforcement of immigration laws, and also applying penalties and registration to those people who had come forward from the shadows and registered to take them out of the shadows.

I want to briefly review the comprehensive nature of that bill and some of the components that caused me to support the bill as the right way for us to address immigration reform.

First, we said we would do border security. We are not afraid to do that. We ought to do border security because it is our right as a sovereign nation to do border security. It is our right to make sure that we are protecting America against terrorism coming across our borders.

For us, as we worked on that comprehensive bill, border security was very important. In our legislation we added 12,000 new Border Patrol agents. We created additional border fences—in fact, a 370-mile fence—through an amendment authored by my friend from Alabama. We provided new criminal penalties for construction of border tunnels, which we find in places where there are fences today. We added new checkpoints and points of entry throughout the border between Mexico and the U.S. We expanded exit-entry security systems at all land borders and airports.

So, yes, this legislation was a very tough border security bill. It was part of the comprehensive approach that we took.

Secondly, we said that it is not enough to just strengthen our borders. We need to do more in terms of what we do inside our country. We said we would do more with respect to immigration law enforcement. Instead of continuing the patterns and practices of looking the other way in this country, we said we as a nation of laws are going to enforce our immigration laws.

We said we would add 5,000 new investigators in our legislation. We said we would establish 20 new detention facilities. We said we would reimburse States for detaining and imprisoning criminal aliens. We would require a faster deportation process. We would increase penalties for gang members, for money laundering, and for human trafficking. We would increase document fraud detection. We would create, very importantly, new fraud-proof immigration documents with biometric identifiers. And we would expand authority to remove suspected terrorists from our country.

So it was tough in terms of our saying that as a nation of laws we will enforce the laws. We didn't stop there. We said there is something else that needs to be dealt with in America—those 12 million people who are cleaning hotel rooms, working out at the construction sites, and the people who probably provided you with your breakfast this morning. There are those 12 million people here who are human beings, and we need to deal with them in a humane and moral fashion.

We said to them that we will require there to be some punishment and registration with respect to your presence in the United States of America. You must go to the back of the line, and, eventually, over a long 12-year period, after we put you in this period of ''purgatory,'' you may end up becoming a citizen.

We said we would require a fine for their illegal conduct of several thousand dollars. We would require them to register with the U.S. Government. I don't have to register with the U.S. Government; I am a citizen. We are requiring these people to register with the Government. We require them to obtain a temporary work visa. We require them to pay an additional $1,000 fee. We require them to go to the back of the line of the legal immigration process. We require them to pass a background check so we would make sure they would all be crime-free.

We would require that they learn English. We would require them to learn history and government. We would require them to pass a medical exam. We would require them to prove continuous employment with a valid temporary visa.

Mr. President, that was a comprehensive immigration reform law that was passed by a bipartisan group of Senators in this Senate, and it is legislation that we should be proud of.

Today, we are being asked to forget that work we did, forget the comprehensive nature of that reform, and to take a simple piece of legislation on a fence and say that we have dealt with the immigration problem of our country.

That is simply, again, a piecemeal approach to dealing with the issue, a political gimmick being used in this election year. It is a gimmick that we should stand together as United States Senators, Republicans and Democrats alike, and reject it and say we are going to move forward with comprehensive immigration reform.

Finally, with respect to this fence, when you look at what people have said about the fence, some have said it reminds them of the Berlin Wall. Some have said that it is un-American. But I would like to quote from some of the members of the administration who,

frankly, have been working with us on a comprehensive immigration reform package. Secretary of Homeland Defense, Mr. Chertoff, said:

Fencing has its place in some areas, but as a total solution, I don't think it's a good total solution.

We had a fence in our comprehensive reform bill, but it was not this fence that essentially creates a fence all across the wide chasm of Arizona and most of Texas.

Attorney General Alberto Gonzales said this about the fence:

I think that's contrary to our traditions.

He noted that ''99.9 percent'' of illegal immigrants ''come across to seek a better life for their families,'' not to make trouble.

That was his quote with respect to the fence.

He also said:

I don't know if that would make much sense. We've got a 2,000-mile border. Because of natural geography, we don't need a fence or border along certain portions of that border.

Yet, today we are looking at legislation proposed in the form of H.R. 6061 that would create a fence-only solution to this very complicated problem we are facing.

In conclusion, I believe Americans deserve better from the U.S. Congress and from us in the Senate. We can, in fact, move forward with comprehensive immigration reform and deal with this issue of national security importance, of economic security importance, and of the moral importance of how we deal with the 12 million human beings who live in America today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

MILITARY COMMISSIONS

Mr. LEAHY. Mr. President, I thank my friend from Colorado and my friend from Alabama for their usual courtesy.

Over the last couple of weeks, the President, as Presidents do, used his pulpit to inform the Senate that his top priority was fixing the problem he created when he unilaterally proclaimed what laws govern military commissions. This newfound desire, this last-minute conversion to the idea of working with Congress, stands in stark contrast to his position in 2002, when a number of us, Republicans and Democrats alike, reached out to the administration and asked the President to work with us to establish the authority for fair and effective military commissions.

Four years later, after saying flat out, no, now the administration's go-it-alone plan has succeeded in having no terrorist military commission trials completed and no convictions. They are ''tough on terror,'' but nobody has been convicted.

Still, Congress set to work and the Armed Services Committee last week reported a bill that is supported by Republicans and Democrats to authorize military commissions. They worked with the professionals in the military, and listened to them. But this week the Senate Republican leadership has threatened to filibuster that bill, which came from a Republican-controlled committee and was voted for by both Republicans and Democrats.

I am a little bit confused. I have been here for 32 years, and I don't always follow exactly what is going on. But as I understand it, last week, the leadership was demanding immediate action on military commissions, saying they were going to be the Senate's No. 1 priority. All of a sudden, they are going to filibuster that. Just last year, the same leadership could not be more critical of what it called leadership-led partisan filibusters on the Democratic side. But apparently they are a great idea when led on the Republican side, even on legislation they supported—or said they did—in the present conference.

This week, the priority is a 700-mile fence along the southern border and a study to do the same thing along the northern border. It is getting hard to keep track of their real priorities.

In the Spring, the majority leader praised and voted for comprehensive immigration reform. The President supported it. The majority leader stood with Senators on both sides of the aisle and supported that bill. Now, he seems ready to throw our work over the side and abandon our principles.

If there is an opportunity for Senate floor time, why not use it instead to put an end to the ongoing war profiteering and contracting fraud in Iraq? Why not help those suffering from Hurricane Katrina? Why not pass a Federal budget? We are required by law to do that in April; it is now late September. Let's show the American people we will obey the law and pass one. Or we can consider the remaining appropriations bills; most have to be completed by next Saturday. Why not work on lowering health care costs? That would get a great cheer from everybody in my State. Or we can work on health insurance costs, fuel costs, or the rising costs of interest rates and mortgage rates.

The bill before us was rushed through the House of Representatives; it is not ready for consideration on the Senate floor. It has had no committee hearings whatsoever in the Senate. It is completely different than what the Senate passed, with Republicans and Democrats voting for it just a few months ago. I don't know why we could not have worked in the normal way we have done for a couple hundred years here and worked out the bills we had. Actually, this is an issue on which the President could be of help and show some leadership. He stated privately that he preferred the bill we passed, and it would be nice to hear him support it publicly.

Along with a bipartisan majority of Senators, I voted for a far more measured version of a physical barrier on the southern border. In doing so, we demonstrated our commitment to border security.

The Senate bill has a provision calling for 370 miles of fencing in the most vulnerable high-traffic areas. That is what the White House requested and recommended. That is what we were told the Secretary of Homeland Security wanted. It also had a provision, which makes a lot of sense, for consultation with the Mexican Government regarding any building of new fences to help ease the tensions that come along with such a project. We don't have an awful lot of friends around the world and we should not work to lose any friendships from our neighbors. In the Judiciary Committee, we also took into account the differences along the northern border and the very close working relationship and personal relationship with the Canadian Government, and kept out a study for a barrier on the northern border.

Look what we are debating today instead of all that. It is a hasty, ill-considered, mean-spirited measure that will cost taxpayers billions of dollars. America can do a lot better than this. A wall of this magnitude will be a scar on the landscape, a scar on a fragile desert ecosystem, and a scar on our legacy as a nation of immigrants. My grandparents were immigrants; my parents-in-law were immigrants. What does a 700-mile barrier wall say about us as a free country?

Most troubling, this bill would give the Secretary of Homeland Security unfettered power to decide what laws to follow, but even more important, what laws to totally ignore. Read the bill.

Remember, it is the same Department of Homeland Security that just last year was supposed to handle Katrina, one of the biggest governmental screw-ups in our lifetime. The Department of Homeland Security was supposed to have those people back a year later in their homes. Instead, we are spending billions of dollars, most of which have been wasted; it has disappeared. What we do see are homes intended for the victims of the Hurricane sitting in fields, empty and decaying.

This is the same Department of Homeland Security that has not managed to secure our ports, chemical plants, and our borders. It is the same Department of Homeland Security that the House of Representatives would entrust with unlimited power to ''take all actions the Secretary determines necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.''

Mr. President, we don't create czars in this country. We fought a revolution to get out of the dictatorial control of King George. We have a constitutional form of government. We don't give one person the power to set aside any law they want.

I don't think any executive official, certainly not those who horribly mismanaged our preparation for Katrina and our response to it, should be given

one more blank check. How many more blank checks should we give away? We have already given them to Halliburton in Iraq. We have given them to the Department of Homeland Security for Katrina.

Remember how this administration misinterpreted the authorization for use of military force? We told them to get Osama bin Laden and they failed miserably, even when they had him cornered. Instead, they say: What we really meant was, not to get Osama bin Laden, but that the President can violate the FISA law and secretly wiretap Americans without a warrant. It is like ''Alice in Wonderland.''

This is the same President who signs a law with his fingers crossed behind his back and then issues a signing statement reserving to himself the power to decide what laws to follow, and how and when.

Remember the law against torture? We all voted for that legislation. The President signs a signing statement saying: However, I will determine how best to follow it.

This is the administration to which the Republican House wants to give a blank check, even after Justice O'Connor and the Supreme Court—the Supreme Court made up of seven Republicans out of the nine members—have reminded us our Constitution provides for checks and balances, not a blank check for the administration.

As I said, instead of doing the job we should do—sitting down, having a conference, working this out, and actually voting on this legislation—what do the Senate and House Republican leadership want to do? Just give all the power to a Republican appointee, and we can all go home and campaign for reelection. God bless America.

The only thing the House left out of its bill is calling this a war on immigrants in which they view Secretary Chertoff as the commander in chief. Actually, I would like to see him take care of the problems in this country, starting with Katrina.

Have the lives lost in Iraq and the billions of taxpayers' dollars unaccounted for, the tragedy of 9/11, and Katrina taught us nothing? Everything happened on this administration's watch: Iraq, 9/11, Katrina, and billions of tax dollars wasted trying to fix the messes they created. How many more disastrous mistakes must this administration make before even a Republican-controlled Congress recognizes that abdicating our constitutional role and concentrating power in the executive branch is the wrong strategy for protecting the security and rights of the American people? Do we need to create yet another environment for crony contractors of the Bush-Cheney administration to bilk taxpayers out of billions?

Five years of this administration's incompetence has left America's borders unsecured and our immigration system broken. We joined to pass a bipartisan Senate bill with tough, practical, comprehensive immigration reforms to secure the borders, enforce our laws, and fix our immigration system. We want to bring undocumented immigrants out of the shadows. They are not just numbers; they are actual, real people—mothers, fathers, husbands, wives, children. The President and his administration say that comprehensive immigration reform will make us safer. I agree with the President on this issue. President Bush told the American people he supports comprehensive immigration reform. I told the public I agreed with him. So now, if he wants comprehensive immigration reform, he has to tell the Republican leadership in Congress to stop obstructing it. They haven't even gone to a conference.

Nor do we need a study to determine whether we should build a barrier along the 3,175 miles of the United States-Canada border. Heavens to Betsy, most of us who live up there go back and forth all the time. We are visiting our relatives, visiting our cousins. I have been visiting my wife's relatives for years. When they come down, they are not terrorists, they are our neighbors whom we welcome to the United States. As I said before, and I will say again, I have heard some cockamamie ideas in my time in the Senate, but this rises to the top.

The northern border is different. It spans the continent. It is the world's longest and safest international boundary, and Canada is our most important trading partner. Have we gone blind? It is clear to me that those who want to build this barrier have no clue about the character, the history, and the day-to-day commercial importance of the northern border and the needs of the States and communities that would be affected. It is best to nip this foolishness in the bud before Congress wastes more tax dollars on another bonehead stunt.

America can do better than this. The Senate has already pointed the way with a bipartisan, comprehensive approach. We need comprehensive reform that reflects America's values and which will actually work. The House bill we debate today will cost the taxpayers dearly, but it will accomplish little.

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

Mr. SESSIONS. I thank the Chair.

Mrs. BOXER. Mr. President, will my friend yield for a question on how much time he would like? I would like to speak immediately following his remarks.

Mr. SESSIONS. Mr. President, I say to the Senator from California, I attempted to follow the Senator from Colorado, and Senator LEAHY wanted to speak next.

Mrs. BOXER. I don't have a problem.

Mr. SESSIONS. I am thinking about 20 minutes.

Mrs. BOXER. That is wonderful. I ask unanimous consent that at the conclusion of the Senator's remarks, I be recognized.

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

Mr. SESSIONS. Mr. President, with regard to the question of fencing along our southern border, I wish to make a couple of points.

Over 1 million people were apprehended last year along that border. One million people coming in illegally were apprehended. Probably another half million got through without being apprehended. Good fences make good neighbors. It is time for us to bring lawfulness to that border. I think the American people want that.

If somebody would like to know the differences between our parties and the differences of how we approach the question of having a lawful immigration system in America, I suggest that my colleague—I enjoy working with him a great deal on the Judiciary Committee.

My colleague referred to the legislation that we voted to move forward to consider—legislation that passed this Senate 94 to 3 to fund the fence on the border and passed 83 to 16 to authorize the fence to be constructed—as ''hasty, ill-considered, and mean-spirited.'' He then went on to suggest Secretary Chertoff is conducting a war on immigrants.

How much of a difference can we have here? How big a gulf? Do the American people want us to just say nothing can be done one more time and just give up, or do they want us to take rational steps that would bring lawfulness to the border? I think they want us to do the latter. They have been asking us to do that for some time, and the votes in this Senate and the House of Representatives have been overwhelming in favor of that approach.

My colleague says that we had hearings in the Senate and we had a Senate bill on the floor, and he implied—I thought he said that fencing was a part of that bill, but it wasn't really. It was my amendment on the floor that moved that bill forward in a significant way. At any rate, we did discuss it, and there has been broad support both in the committee and on the floor to proceed to that matter.

I just want to say, yes, we want comprehensive reform. No, we don't want to end all immigration. The wall the Communists built in East Germany was to keep their citizens in East Germany, to keep them from fleeing their country so they could have freedom. That is quite different from an attempt to maintain a legal flow of people into the country because we just can't accept everybody. This country cannot accept everybody who would like to come.

A recent poll in Nicaragua said 60 percent would come to the United States in they could. A poll in Peru said as many as 70 percent would come if they could. The whole world has millions and millions of people who would like to come to this country. So we ought to set up a rational system, one that serves our national interest, one

that is fair, and then enforce it, set up a system that works. As long as we have a wide-open border, without control and law, we are not doing our duty. I don't think those of us in this Congress, in this Senate, want to go back home after we recess and say we didn't follow through on what probably most of us have been saying—that we do believe barriers are necessary.

The House has sent us a bill, not unlike the Senate bill that we passed 83 to 16 and we voted to fund 94 to 3. The bill I offered had 370 miles of fencing and 500 miles of barriers. The House bill has about 700 miles, I believe, of fencing and barriers and electronics. There is not a lot of difference fundamentally between the two.

We now will have an opportunity to offer amendments to discuss details. Fundamentally, we need to take action. We need to do something. We don't need to go home again and wait until next year without any action.

Then when it comes to comprehensive reform, we need to bury the proposal we have that the Senate has considered and voted on, move that aside, and come back next year with a fresh approach and create a comprehensive plan for immigration that serves our national interest, that is consistent with what our allies, such as Canada and Australia, do, and consider what they do. If we do, we will come up with some good ideas, and we will have something the American people can support.

If we gain some credibility with the American people by, first, taking action toward enforcement, we will be able to do something good, but it will have to be next year. There is no way this Senate should accept a rushed-through package before this election or after this election in some lame-duck Congress that does not have a fresh look at our policy. I will resist that with every fiber of my being, but I will not resist comprehensive reform because I think we need it.

I wanted to share those thoughts, Mr. President. I am pleased that we just had a unanimous vote to move forward to the fence bill the House has passed. We will talk about it today and tomorrow.

I also serve on the Judiciary Committee and the Armed Services Committee. We have had quite a lot of discussions on those two committees and now in Armed Services, in particular, about how to deal with the effect of the Hamdan decision and how to make sure we are in compliance with the Supreme Court opinion. I want to make a couple of points.

The President thought and believed and his top lawyers advised him—his top lawyers advised him—that the detainee interrogation program that was being conducted, that they wanted to conduct, was producing substantial results for America, obtaining information that has thwarted attacks on America and saved lives, has provided information to identify that some of the people involved in 9/11—these are some of the people who have admitted and we have evidence against to prove were actually complicitous in 9/11, coconspirators. The President has moved those prisoners down to Guantanamo.

The interrogation process for those have been exhausted. They believe they have obtained all the information they can expect to obtain. They need to be tried for the crimes they have committed in a war they are conducting against the United States of America. They will be tried in the forum in which they should be tried, in a forum provided for in the U.S. Constitution, in a military commission.

This is not a trial in the Southern District of New York for an American citizen for bank fraud or drug dealing. This is a military commission adjudication of whether these people are involved in a war against the United States that has resulted in the deaths of 3,000 American citizens on 9/11 and other deaths since then. So he had a legal opinion on that. They briefed it to him. And do you remember the President looking us in the eye right after 9/11, and he said just the other night, Monday night a week ago, I guess, on television, he looked the American people in the eye and said: I am going to use every lawful power I have to defend the people of this country. That is my responsibility, in effect, he was telling us, that is my duty, to protect this country, and I am going to use every lawful power I have. And we cheered. And we said: Yes, sir. And we said: Mr. President, catch those guys. Put your people out there and catch these terrorists who have attacked our country and killed our innocent people and crashed into the Trade Towers and run airplanes into them. Go get them. Do you remember that? Boy, I am telling you, people felt strongly about it.

So now what do we have? Oh, we have the complainers and the second-guessers. I just want to say this: I believe the President's program was legal from the beginning. I have researched the law. I have been involved in this. I was a Federal prosecutor. I don't know everything, but I have some understanding of it through both of the committees in which I have been involved, and I know they researched the law and they believed they were operating lawfully.

I remember the Ex parte Quirin case during World War II when President Roosevelt was President. They caught a group of saboteurs who were let loose on the American homeland from a submarine, I believe it was, and they came in and they planned sabotage against the American people. Do you know what they did? And the Supreme Court approved this in the famous case Ex parte Quirin. They took them, they caught them, they set up a commission, they tried them, and they executed most of them in short order because this was not like some normal trial. These were people coming into our country for the purpose of sabotaging this country, people whose motives and desires were to kill innocent men, women, and children, contrary to the laws of war—contrary to the laws of war, which do not allow for that. That is the big deal.

So the people who have been apprehended, the people who were being detained and incarcerated and interrogated were not prisoners of war. This is crystal clear. You can't execute prisoners of war the way we executed the Nazi saboteurs. Prisoners of war are entitled to all of the protections of the Geneva Accords, and they have to be provided great protections and great advantages, really, and we adhere to that, we adhere to that today, and we always have. It was been taught to every soldier in America.

But these are unlawful combatants. They sneak around. They don't wear uniforms. They don't carry their weapons openly. And their goal and tactic is to utilize terror and slaughter innocent men, women, and children to promote their agenda. That is not a soldier. A soldier can drop a bomb on a military target, but a soldier can't shoot because it may unfortunately result in someone being killed. But a soldier can't deliberately have his policy to kill women and children and noncombatants. Otherwise, they are an unlawful combatant, not a lawful combatant, and they have been considered not to have been covered by the Geneva Accords.

But the Supreme Court, in my opinion fundamentally reversing the Quirin case, which the President relied on, came along and said that in Hamdan, Common article 3 of the Geneva Conventions applies to these terrorists and that we need some more rules and regulations with regard to how to try them to create a just trial.

OK. So what did the President do? Did he act unilaterally and say: I am not going to do it, I am not going to comply with the Supreme Court. Yes, he previously said he thought what he was doing was proper. No. What did the President say? He said: Congress, let's review Hamdan. We are sending you some proposals which will clarify what we can do with interrogations, which will fix the concerns about trying these unlawful combatants, and I want you to act on that, and we need to do it quickly because we need to continue to interrogate terrorists and we need to try those people who are responsible for the deaths of American citizens on 9/11. That is not a seizing of power—some dictator. That is not someone who comes along and says: It has to be my way or the highway.

So we have a group of Senators now on the Armed Services Committee who say: Well, they have their own plan and they have researched the law and they don't want to do what the President says. They want to do it their way. OK. This is what Congress is all about.

I agree with the President. From what I understand of the situation, I

am supporting the President's view. But I know people have different views, and I am willing to listen to those concerns. If we can reach an accord that I feel good about and the President feels good about and the Senators objecting who have their own agenda can agree to, that would be wonderful. But there are a couple of things that have to happen.

We cannot end our interrogation procedures that have been so effective. General Hayden, the Director of the CIA, has told us and pleaded with us that if we adopt the proposal the Senators have favored—and it was voted out of the Armed Services Committee—he is going to have to stop the program. Wow. He is going to have to stop that program. So we don't want to do that, surely. I mean, this is a man of integrity and ability and experience. He has talked to his people who conduct these interrogations. They are not torturing anyone. We have a statute that prohibits the torture of anyone—Federal law. People can go to jail for that. It defines what torture is in very explicit terms. If somebody has proof that our people have tortured somebody, well, let's bring them up and try them. But let's not overreach here.

We are in a dangerous world. The leader in Iran recently said that his goal was to see the United States of America bow down before Iran, in a public address. How about that? We have nonstate extremists committed to death and destruction around the world through suicidal attacks, and they represent a real threat to the peace and dignity of the whole world. So this is not an itty-bitty matter.

There are two things that have to be done, and we should do them before we adjourn. The two things are as follows: We need to establish the rules for interrogations because if you read through the lines, if you read through the lines, what you will hear those agents saying is: We thought we were serving you. We thought we were following all these rules the lawyers told us to. But we were using what we thought were legal tactics and techniques to interrogate prisoners, and we have obtained great and valuable information which will help protect our country, which has helped us identify people who attacked us on 9/11, which has thwarted attacks. We have done all of these things. That is what we thought you wanted us to do, Congress. Now you tell us we are some sort of beasts and that we have done all these things wrong and we ought to be sued. And many of our people are being sued right now—400—by terrorists, and we are going to accuse them of being less than American. They put their lives on the line in some of the most dangerous areas of this globe to capture these terrorists. And they are saying: OK, Congress, you tell us.

That is what I read General Hayden to be saying. He didn't say that exactly, but he speaks for those agents of his. And they are having to take out insurance policies against lawsuits because they expect to be sued more by terrorists. Where did this happen—in a war, we have lawsuits?

I am suggesting that this matter is no light deal. We do not need to make a mistake and destroy the morale of those who have served us so ably, with so much fidelity and courage and hard work. We need to fix this, and we need to allow them to utilize legitimate techniques. Some of those have the ability to stress an individual for a period of time but not torture. That is against the law. That is illegal. It is not against the treaties we have signed. We can do that, but we don't need to go too far.

The next thing is, it is time to get on with the trial of the people who attacked us, in a military format because it was a military attack on us. Al-Qaida, you remember, bin Laden declared war on the United States of America for years before 9/11. He attacked our warship, the USS *Cole*, he attacked our embassies in Africa, and there have been other attacks. We are in a state of hostilities with al-Qaida directly, and we have authorized those hostilities by the Congress of the United States. So they are rightly to be tried not in the Southern District of New York, not in the U.S. District Court for the District of Columbia, they are to be tried in a military commission as an extension of the military campaign, the war we are conducting.

The military commissions are not the same as trials, I have to tell my colleagues. They are just not. It is a different animal. Because we are Americans, we want to be sure that even those terrorists we try are not unjustly convicted, that the evidence against them is legitimate and that it proves their guilt to the required degree, and only then should they be punished, as opposed to just being detained, actually punished for the crimes they committed. But it does not require that we meet the standard of Federal district court.

Let me just say these two things. We have made mistakes before. This time we are in now, we have the newspapers all excited, saying we have abused prisoners. We have leftist groups and world interest groups, and they have all said we are abusing prisoners and Guantanamo is horrible. Well, I have been to Guantanamo twice, and it is not horrible. They are treating those prisoners fairly and decently. They are not being tortured. Anybody who abuses prisoners is being disciplined.

They said: Well, you abused prisoners in Abu Ghraib. Well, they have been tried and sent to jail, the American soldiers who participated in that. They put them in jail. And it was not part of any interrogation. What they did was just an abuse of those prisoners for their own amusement, their own sick feelings or ideas. They were not interrogators. They were not interrogating them. They were not following any rules of interrogation. They were just abusing prisoners. And we have tried them and convicted them and sent them to jail. The fact that they did that was discovered by the military itself. Our military has done its level best to treat prisoners fairly and justly, and it is a slander on them to continually suggest that is not so. People from all over the world have gone to Guantanamo.

So I want to say this warning. I am going to watch this legislation. Even if the President agrees to it, I am going to read it. I don't know what they are talking about now. I haven't seen the latest negotiations between the Armed Services Committee and the White House. I want to give this warning. It wasn't too many years ago that people in the Congress and in the news media and the world groups all raised cain, and they said that CIA agents were out talking to bad guys, people who had criminal records, and they were paying them money to be informants for them. And some of them had actually killed people, and this was horrible. The CIA couldn't have that judgment call to make anymore, and they should never again associate themselves with people with criminal histories. The people said: This is going too far.

Many times, the only people who know anything are people who are participating in it. You have to get the information wherever you can get the intelligence. No, the Congress said, listening to the media, listening to the ACLU-type groups. No, no. We have to crack down on our agents and make sure they don't deal with people with criminal records. So we passed a law that banned that.

Then they said: Well, you know, the CIA can gather information differently than the FBI. We don't know what they might gather, so we have to create a wall between the CIA and the FBI, and the CIA can't share information with the FBI—not to prosecute somebody—just to find out what is going on. In this country, when they find out from foreign intelligence that someone is threatening the security of America, they are not able to share that information readily. I suppose they were trying to mollify the news media and the activist groups and those who are always complaining. Maybe they did, in the short run. But do you remember what happened after 9/11? I remember. We said we didn't have enough intelligence. Why didn't we know this was happening to our country? Why didn't we know?

We began to look at it and see what was happening. Both of these issues—they were passed in a fit of morality or trying to go overboard to prove we were good and decent people. They went back and found both of these tactics, the wall between the FBI and the CIA and the ban on agents talking to dangerous people with criminal records were bad, and we promptly reversed them. Can you imagine that? So we threw them out.

All I am saying is we need to watch this deal coming forward to the Senate

today. We do not need to go too far. We have laws against torture. We have laws that require us to treat prisoners with decency and respect in accordance with the Geneva Conventions. But there are things we can do consistent with our law and consistent with our treaties. It would be a mistake for us to unilaterally, out of some sort of attempt to placate opinion around the world or the opinions of those who dislike us, to adopt restrictions on our capabilities that go beyond what the law requires. How silly would that be.

It might not make a difference in this case, because he has already confessed, but what cases are we going to see in the future? What other threats will this country have? I, for one, am not going to participate in unilaterally hamstringing the ability of our military and our intelligence agencies to do their job, to protect America consistent with our law, consistent with our heritage, consistent with the treaties which we signed.

It is a tough call. The matters are very complicated. I respect people on both sides, but I am telling you we need to be careful. We don't need to make the mistakes we did when Frank Church was running the Foreign Relations Committee in the Senate and we made a lot of errors, and other errors we made over the years.

I thank the Chair for allowing me to share these thoughts as we continue to wrestle with how to establish interrogation rules and trials of those who have attacked our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

AFTER 9/11

Mrs. BOXER. Mr. President, I have listened to the Senator from Alabama. He brought us back to 9/11 and that is where I am going to start in my remarks right now, on a dreadful day when we saw the Pentagon in flames right here from the Capitol and we ran down those front steps and it was the bluest of skies and we were looking for Flight 93, was it coming our way? We all vowed to go get the people who attacked us.

I came down to this floor and with a heart full of grief. Every one of those planes was going to my State. I voted to go get the terrorists. Go get al-Qaida. Go to war against Osama bin Laden. I am sorry to say that, for whatever reason—and we are beginning to learn more about it—based on misinformation, faulty information, skewed information, we turned around and we took our resources, great resources and the greatest men and women in the military, and we went into Iraq.

The bipartisan Senate Intelligence Committee now tells us unequivocally there was never one connection between al-Qaida and Saddam Hussein. Remember all the talk and all the chatter from the Vice President and the President and Condi Rice? Remember when Donald Rumsfeld said we know where those weapons are? I remember sitting literally 8 feet from Donald Rumsfeld, asking him where the weapons of mass destruction were. And he said, Oh, they are all around Baghdad. You go down the street, take the left, turn to the right—there they are.

No. No. Now we have a circumstance where, because of the great work of our intelligence community, we have brought back people, some of whom were involved—that is what we believe—in 9/11. Right now we do not have a system in place so they can meet their just reward because the Supreme Court said Congress has to act and set up a tribunal in a way that respects the Geneva Conventions—this is very important.

We have three Senators with distinguished military careers on the other side of the aisle, who have said: Whatever we do we must not jeopardize our troops. Therefore, we must make sure that we do not do anything to change the Geneva Conventions. What do they get for thanks from those who have never seen combat?

My husband served in the military. I know what it is like to sit and wait, because he was 6 years in the Army Reserves, asking, Will he be called? Won't he be called? We were fortunate. Senator MCCAIN was not that fortunate. He was a prisoner of war. He, JOHN WARNER, and LINDSEY GRAHAM, who was an attorney in the military, are guiding us to write something that makes sense so that we can try these people. And if in fact they are guilty, they can meet their just reward.

They get people on their own side of the aisle calling them out. I think it is outrageous. To quote the Senator from Alabama:

> People who don't agree with the President on this, they are slandering the military.

I can't believe it. It is basically like swiftboating Senator MCCAIN and Senator WARNER. It is unbelievable.

Who would you trust, I ask the people of America, on this military matter? People who never served a day in combat or people who put their life on the line? And then to hear them slandered in this way on the floor of the Senate—not by name, but by inference—is very disheartening. And to see a Republican do it to a Republican? I don't get it. I don't get it.

I hope we can come together to make sure we have a good plan in place because if we do not have a good plan in place, what good does it do us? It doesn't do us any good if we don't have a plan in place that passes the legal test, because it will be thrown out by the courts and we will be back to square one and we will not be able to try these people in the way they ought to be tried.

I come here to say thank you to those Senators who stepped out and said: Wait a minute; we want to do this right, Mr. President. Work with us. We want to do it right.

I think we have had enough. We have had enough of swiftboating around here, and it has to stop in America. It has to stop in America.

I want to go back to 9/11 because when I voted to go after the terrorists, that is what I thought this Government was going to do. I thought they would throw all the resources at it. We went into Afghanistan. We freed the people there. I was proud. I went to my Afghan-American community and I was so happy for those people. They saw light. And we shorted that. We shorted them. We don't have enough troops there.

You know what is happening even in Kabul now. You are seeing attacks on women and girls, you are seeing murders. The poppy trade is growing. This was our opportunity to not only find Osama bin Laden, who was there, but also to make Afghanistan a model of democracy that the President is always talking about. He stood up at the United Nations—some of the things he said I really believe were correct. But one of the things that was not correct is when he said: We need democracy; take a look at what we have done in Afghanistan and Iraq.

I can tell you, anyone with a television set looks at what is happening in Iraq and says: Oh, my God, it's close to civil war. He puts that picture in our minds next to the word democracy? That is not going to help people. People looking around the world at that say, You know what? I really want democracy, but if my country is going to look like this, count me out.

It is just not real, Mr. President. It is not real. Just like it is not real to go after three Senators with distinguished military careers and tell them they are off-base when they try to put forward a solution to the problems that we are facing in terms of how we try these alleged terrorists. If they did what we think they did, again, I don't want them sitting in prison, I want them tried, convicted, and meet their fate. That means we need to put a system in place.

After 9/11 and after we took that turn and we didn't go after the terrorists as we should and we went into Iraq instead and we got bogged down there, year after year after year, and the President's plan is, and I quote: We will be there as long as I am President. That is his plan. That is not a plan. That is not a strategy. That is not a policy of success. It is the status quo, and it is weighing on the American people.

The President said that. I agree with him. It is weighing on the American people. What he didn't say is it is weighing down the American people because it is so expensive that it is up to near $8 billion, $9 billion, $10 billion a month in Iraq.

I went to a rally on The Mall today for cancer survivors. Mr. President, I don't know if you got to go over there, but it is the most touching thing I have seen in a long time. Each State there has a tent and in the tent are the cancer survivors. They are asking us,

they are begging us, they are pleading with us to reverse the cuts that this President made in this budget for cancer research. That is what they are asking.

We spend $5 billion a year on cancer research—$5 billion. That is 2 weeks of the Iraqi war. Why don't we just decide we will end the war 2 weeks earlier and double the funding for cancer research?

Our families need us at their backs. They cannot do this alone. They cannot find the cure for cancer. They cannot come up with the treatments, with the science. Many of them need insurance. We spend $10 billion a month, almost, for the Iraq war. Think about it.

So this war, which has nothing to do with the war on terror, which has been shorted because of this war, is also now stealing from the American people, and they do not want it. They want to start bringing the troops home.

We need a political solution in Iraq. We need a conference with that country and its neighbors. We need to look at semi-autonomous regions, with the Federal Government there making sure that the oil is distributed in the right way. That is a way out of this. Senator BIDEN has explained it many times. He understands that it is not a policy to just say we are just going to keep on keeping on.

Anyone who has ever read a book on Iraq knows that after World War I the Brits put together everyone in that country who didn't get along with each other and then they were just busy taking in oil while everyone else was fighting. It took a monstrosity of a man, a tyrannical man, to keep that country together—and now that man is facing his just rewards.

But there has to be a better way than the status quo. We need a new direction in Iraq, and we need it because the Iraqi people have to step up to the plate and take care of their own country. No country can survive with an occupation force running the show. It doesn't work.

They have to want freedom and democracy. They have to love each other enough to live in the same country as much as we want it for them; otherwise, this is an endless war. This is the forever war.

Come to my office. In front of the door I have four easels. I am sorry to tell you they are huge easels with small print. On those are the names of the dead from California or based in California. We are all faced with this in our States more and more—brokenhearted mothers, hysterical children. And what is the ultimate plan?

First, it was the mission: go get the weapons of mass destruction. Then we found out there were none. That mission was done. Second mission: go get Saddam Hussein. Our military was brilliant. They got Saddam Hussein. He has been brought to trial. Then they said, well, things are still not good. Maybe you ought to get his family members, and we will show them to the Iraqis. That will stop the killing. Tell them that we mean business. Our military did it. That didn't help. Oh, well, we will get a terrorist. That will show them. That didn't help because the underlying problem is these are people who have hatreds that go way back. They have to decide if they want to set those hatreds aside. Otherwise, we will be there forever.

We are fueling terrorism. We cannot stop this civil war. And we are paying the price in dead and wounded, 20,000-plus, with the worst injuries you can imagine, including brain damage, burns, things that I don't know whether any of us here could actually imagine.

The cost is weighing us down. Everywhere you look we don't have the money for this, we don't have the money for that, we don't even have the money for what Senator SESSIONS is putting before the body, which he voted for before. There are areas of the border where you can build the fence. This isn't an issue with me. But we don't even have the money for that. It is not even in this bill that is before us. Where are we going to get it?

I wasn't going to go on and on with these different subjects because I really came to talk about the state of agriculture in my State. I am going to do that now. But when the Senator from Alabama—and he is most sincere—came down here and attacked people who are trying to find a reasonable solution to a difficult problem and said that they were slandering the military if they do not agree with the President, I had to talk about these things.

It was a Republican President who said this. I wish I had the exact quote. I will paraphrase it. This was Teddy Roosevelt. He said—and I paraphrase—that the President is the most important elected official among many, but those who say that he should not be criticized are guilty of being servile and border on the treasonous.

I can tell you when I came here, I took an oath to protect and defend my country. I told the people of California they could count on me to do that. I didn't come here to be a servile Senator, to rubberstamp any President, Democratic, Republican, Independent, you name it. And I certainly didn't come here to say to another Senator who might not agree with me that if they do not support the President they are slandering the military. I find that over the top, outrageous.

We have a bill before us that, as I understand it, the Republicans are not going to allow us to amend. I hope I am wrong. I hope Senator FRIST, in fact, will allow us to amend it because there are some very good ideas in this body that need to be heard about security, about immigration reform. And I know my colleagues in the Chamber today have worked very hard to try to bring balance into the way we approach the immigration debate. I support them on that.

I want to tell you what is happening in my State right now. We haven't acted, and we haven't taken care of the broader issue. I have a farm community, an agricultural community that is in deep trouble. It seems to me, since we have 62 Members supporting the Craig-Kennedy bill, which is the AgJOBS bill, that at minimum we ought to be allowed to offer an amendment, which I know Senator CRAIG wants to do, to deal with this terrific problem. We must do more than one thing at a time.

To those people who say we will take care of the fence, and then after it is built we will figure out how we can take care of the rest of the immigration problem, I say that is a recipe for economic disaster, at least in the agricultural community.

I want to read to you a letter that I received from an organization that represents 1,100 organizations, the United Fresh Produce Association. The headline says: ''Farmers to Congress: Support a Safe and Secure American Food Supply, Pass an Immigration Fix Before the Election of 2006.''

It goes on to say that we have a horrible problem in our agricultural industry.

Here is what they say:

American labor-intensive agriculture has proactively sought a solution to its labor and immigration challenges since the early 1990's. Unfortunately, Congress has failed to act. Now, growers and producers are experiencing actual labor shortages rather than just shortages of legal workers. Labor shortages are being reported from coast to coast. Crop losses are starting to occur, from berries and pears in the West to oranges in Florida.

Specialty crops, fruits, vegetables, nursery, greenhouse and floriculture plants, turfgrass, sod, wine grapes, forage crops, and Christmas trees comprise 50 percent of the value of the American crop agriculture. They are labor-intensive crops, and they are at risk. Also at risk are poultry, dairy and livestock production.

My dairymen tell me the same thing. They talk about the fact that the 50-year-old flawed guest worker program just isn't working. It is unresponsive, it is bureaucratic, and it is expensive. It is litigation prone. They are asking for this AgJOBS bill.

You may ask: Senator, why can't you offer this amendment? The answer has to come from the Republican side. They control this place. I can tell you right now there is support from 1,100 businesses from growers to shippers, wholesalers, retailers in every state want this bill.

I ask unanimous consent that their letter be printed in the RECORD.

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

FARMERS TO CONGRESS: SUPPORT A SAFE AND SECURE AMERICAN FOOD SUPPLY—PASS AN IMMIGRATION FIX BEFORE ELECTION 2006

American labor-intensive agriculture has proactively sought a solution to its labor and immigration challenges since the early 1990's. Unfortunately, Congress has failed to act. Now, growers and producers are experiencing actual labor shortages rather than just shortages of legal workers. Labor shortages are being reported from coast to coast.

Crop losses are starting to occur, from berries and pears in the West to oranges in Florida.

Specialty crops (fruits, vegetables, nursery, greenhouse and floriculture plants, turfgrass sod, winegrapes, forage crops, and Christmas trees) comprise 50% of the value of American crop agriculture. They are labor-intensive crops, and they are at risk. Also at risk are poultry, dairy and livestock production. An estimated 70% of the farm labor force lacks proper legal status. The only available labor safety net is a 50 year-old flawed guest worker program known as H–2A, which presently provides only two percent of the farm labor force. It is unresponsive, bureaucratic, expensive, and litigation-prone.

The reforms American agriculture needs now are two-fold: An agricultural worker program, such as reformed H–2A, that meets the special needs of agriculture; A workable transition strategy that allows for more experienced workers to earn legal status while capacity is built on the farm and at the border for wider reliance on an agricultural worker program.

Last May, the U.S. Senate passed a comprehensive immigration reform bill. It contains agricultural provisions consistent with the needs outlined above. Namely, it overhauls H–2A to streamline the program, make it more affordable, and provide a balance of worker and employer protections.

By contrast last December the House of Representatives passed a harsh and anti-employer border security and internal enforcement bill. If it became law, H.R. 4437 would cause American agriculture to lose most of its workforce through mandatory and universal electronic verification of employment authorization documents.

What is at stake? America's food independence and security.

That's a matter of national security.

And the economic contributions and job-creation that exist here in America because the production is here.

A recent study by the American Farm Bureau conservatively projects that the loss of the workforce from an enforcement-only bill would result in U.S. fruit and vegetable production falling $5–9 billion annually in the short term and $6.5–12 billion in the long term, with impacts in other production sectors reaching upward of $8 billion. Three to four jobs in the upstream and downstream economy are generated by each farm worker job, so well over one million good American jobs are at risk.

To avert an unfolding crisis in American agricultural disaster, Congress must enact comprehensive immigration reform that that ensures growers and producers access to a legal workforce American agriculture is unified behind these critical principles:

A safe and secure domestic food supply is a national priority at risk. With real labor shortages emerging, agriculture needs legislative relief now. The choice is simple: Import needed labor, or import our food!

If perishable agriculture and livestock production is encouraged or forced offshore, we will also lose three to four American jobs for every farm worker job.

Any solution must recognize agriculture's uniqueness—perishable crops and products, rural nature, significant seasonality, and nature of the work.

Enacting enforcement alone, or enacting enforcement-first, will cause agriculture to lose its workforce. Even ''doing nothing'' will worsen the growing crisis, with the border already much more secure, and worksite enforcement on the rise.

As part of a comprehensive immigration reform or stand-alone legislation, agriculture needs a program that (1) eliminates needless paperwork and administrative delays; (2) provides an affordable wage rate; and (3) minimizes frivolous litigation.

For a successful transition, trained and experienced workers who lack proper legal status should be able to eventually earn permanent legal status subject to strict conditions like fines, future agricultural work requirements and lawful behavior.

American farmers, ranchers, and business people are depending on Congress to pass a good bill without further delay. To do otherwise jeopardizes American agricultural production and jobs and the food security of our Nation.

For more information: Agriculture Coalition for Immigration Reform, Craig Regelbrugge; National Council of Agricultural Employers, Sharon Hughes; United Fresh Produce Association Robert Guenther.

Mrs. BOXER. Mr. President, we need to pass an AgJOBS bill. Our farmers and our ranchers are begging us to do it. They need a solution. But because we haven't acted, everything is paralyzed.

I want to show you a picture of Toni Skully, a pear farmer from Lake County, CA, looking at the pear crop she lost because she didn't have enough workers to pick the trees. Pear farms are an estimated $80-million-a-year business in California. They were unable to harvest 35 percent of their crop this year due to the lack of field and packinghouse labor. Unfortunately, situations like Toni's and the pear growers of Lake County are happening all over California.

I discussed this with my colleagues. They are telling me it is happening in their States, too. My lemon growers in San Diego are experiencing a 15- to 20-percent harvest loss. Avocado farmers in Ventura County are worried about workers for the December planting season. Tree fruit growers in Fresno County have seen their labor force increase by as much as 50 percent. In Sonoma, as many as 17,000 seasonal farm workers have not returned from Mexico to work in the fields.

According to USDA, agriculture is a $239-billion-a-year industry. And if we refuse to provide a solution to labor shortages now, we are jeopardizing our domestic economy and our foreign export markets. We are driving up production costs that get passed on to consumers. Our consumers are already having trouble. Even with the decrease in gasoline prices, they are way up from where they where historically. They are dealing with health insurance premiums that are way up. They are dealing with college tuition costs and education costs that are way up. Now they are going to walk in the supermarket where we have such good prices and see that prices are up because of the inability to hire people because there has been a crackdown on the workers.

All of that is happening for one reason: the House wouldn't follow the Senate. The Senate had taken care of it. We had a good, broad bill that dealt with border security, additional guards at the border, and everything they needed at the border, plus a way to deal with the agricultural industry and the millions of workers who are in the shadows who are afraid to come out of the shadows.

Let me tell you, do you think that makes us secure when we don't know who they are? I don't think it does for a minute. That is why we need to have this type of bill passed in the Senate.

But at minimum, I say to Senator FRIST, allow us to offer the Craig amendment. Senator FEINSTEIN is very strong on this.

It was interesting. Independent of one another we immediately said we ought to offer the Craig-Kennedy amendment. She and I talked to Senator CRAIG. We said: Please put us on as cosponsors.

A 2006 study done by the American Farm Bureau found that if agriculture's access to migrant labor is cut off, as much as $5 billion to $9 billion in annual production would be lost—and that is just the short-term prediction. If agriculture's access to migrant labor is cut off, as much as $5 billion to $9 billion in annual production of primarily import-sensitive commodities would be lost in the short term. That is a statistic from the American Farm Bureau Federation.

Again, this is a place where Republicans and Democrats should come together. I don't understand why Senator FRIST will not allow us to offer this Craig amendment. We have a vast majority in this body in favor of it. Our farmers say pass the AgJOBS bill now.

It is supported by United Fresh Fruit and Vegetables, the Agricultural Coalition for Immigration Reform, the National Council of Agricultural Employers, Western United Dairymen, the California Grape and Tree Fruit League, California Citrus Mutual, among many other agricultural groups.

The AgJOBS bill pulls together both the owners and the workers. This is rare in and of itself to have everybody come together, farmer groups and the agribusiness people coming together, and yet with all that support—I believe we are up to 62 supporters in the Senate—we cannot at this stage be assured that Senator FRIST, the Republican leader, will allow us to have a vote on this amendment.

The AgJOBS bill would allow immigrant farm workers who are here now to harvest the crops. It would put 1.5 million workers on a path toward legal status if they prove they worked in agriculture before enactment of the law, and if they work 3 to 5 more years in agriculture after its enactment.

It is a way to save the workforce and get people out of the shadows. We know who they are. That is key, to know who is in this country, not to have people hiding. It makes no sense.

In May, the Senate again passed immigration reform that included this very language we want to offer. It got 62 votes. Building a border fence—again, I voted for it. There are parts of our border that need that kind of structure. I don't have a problem with it.

What I have a problem with is the fact that is not going to solve our problem because we need to address the economy. We are worried about a housing slump. It is coming on pretty quick. We hope it does not materialize, but it does not look good. In many cases, a housing slump is followed by a recession. Do we want to add to the trouble by having a situation where as much as $5 to $9 billion in annual production is lost? I don't think so.

I will do whatever I can to convince the Republican leadership to allow Congress to take care of agriculture. When we have a bill that is supported by 62 Senators, on both sides of the aisle, that is supported by labor and management, it makes sense to move it forward. I cannot stand the thought of looking in the eyes of my dairymen and my farmers one more time when they come back here and say the first issue on their agenda is this problem they are having with their workforce.

There is a way to do this that makes sense. There is a way to do this that will give us control of our border. That is what we ought to be doing. We ought to be looking, at the minimum, to saving our agricultural industry.

I say to my Republican friends, and I am being very honest, I am not sure farmers have been my strong supporters over the years. They usually go Republican. I can read the list of supporters. What is the majority doing, shutting them out?

Let's work together. Let's work together for them, for the consumers, for the workers. We cannot afford the one-two punch of an agriculture industry that begins to fall apart as the housing industry is having problems. We just cannot afford to see another sector have a problem. Autos, housing, now agriculture?

Please, this is too important to play politics with. Help our agriculture businesses. Help our workers. Help get people out of the shadows. Do something to help America. Don't keep this bill so narrow in focus that we do not see the forest for the trees.

I hope we have some good news and that there will be a good agreement on our surveillance issue, on our military tribunal issue. I hope the leadership will open this up to save our agriculture industries. They are asking us for this.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I thank the Senator from California for the passion she brings to this issue in pointing out the fact that, indeed, there are major industries in this country that are desperately in need of a labor pool. Agriculture, as the Senator has so articulately pointed out, construction, the tourism industry—three industries that affect our State and the Senator's State—all three of those industries are enormously important.

If we want to do something for immigration and actually make what is, in effect, amnesty now, because the law is not being obeyed, at the time the Senator and I served in the House of Representatives in the 1980s, in which we voted for that immigration bill, there were only an estimated 2 million people in the country illegally. Now it has swelled to something like 12 million.

Amnesty is the condition we have right now because the law is not being obeyed by the people who are supposed to obey it and the U.S. Government is not enforcing the law which allows all the more illegal entrants into the country.

The solution, in the interest of the United States, it seems to me, to get our hands around the problem of illegal immigration, is to pass a law that has some teeth, that will be obeyed and, at the same time, provides the labor pool so we do not wreck our economy in the meantime.

The Senator from California has just pointed out industries in her State, agricultural interests in her State that, in fact, are having difficulty getting workers to harvest the crops. It is another one of the little ironies, that people are saying amnesty, amnesty, amnesty, amnesty, and what we have right now because the law is not being obeyed.

We ought to pass a bill, a bill that controls the borders—of course, there are more reasons for controlling our borders than just immigration, with terrorists coming into our country—a bill, in addition, that will address the labor needs.

UNANIMOUS-CONSENT REQUEST—S. 2810

I address the Senate on another subject with regard to seniors and their prescription drug coverage. We have long advocated there be meaningful prescription drug coverage. Two or 3 years ago we passed one. It ended up showing there are quite a few deficiencies in the prescription drug coverage Medicare Part D for senior citizens. However, it was passed and it is law.

It is our job now to improve that law and correct the deficiencies, plug the loopholes, and make the appropriate changes to this program that are going to help seniors afford the cost of prescription drugs.

Over the past several months, as we have been dealing with this issue, I advocated extending the enrollment period under the Medicare prescription drug program and the elimination of the late enrollment penalty. Under the current law, which was passed several years ago, seniors who did not sign up by May 15 of this year—that was the deadline—and who enroll at a later date, when they do enroll for the Medicare prescription drug program, they are going to pay a penalty of 1 percent of their premium tacked on for each month they delay the enrollment. If they wait to sign up until the end of the year, they are going to pay a late enrollment penalty of 7 percent.

If the whole idea of giving senior citizens some financial help with a prescription drug program is to help them financially, and now we are going to slap a 7 percent late enrollment penalty on them, it works at counter purposes to what we are trying to do to help the seniors.

The Congressional Budget Office says that three million seniors are going to have to pay these higher premiums because they will have the penalties assessed. Many of the senior citizens in this country simply are not aware this penalty exists.

The Kaiser Foundation did a survey and found that nearly half of the seniors are unaware they face a financial penalty if they did not sign up by May 15. We tried, before May 15, to get Congress to extend the enrollment deadline. We got well over a majority of the votes, but we could not get the 60 votes to cut off debate. I believe we ought to at least waive that penalty for those who did not enroll and want to do so at the end of this year.

We filed a bill, S. 2810, the Medicare Late Enrollment Assistance Act, that allows Medicare beneficiaries to sign up during the next open enrollment period without a penalty.

Last May, after the deadline had just passed, this Senator worked with Senator GRASSLEY and Senator BAUCUS to introduce this bill. The bill now has 45 Senators cosponsoring it. The enrollment period for next year is fast approaching. We need to pass this bill before we adjourn. We have less than a week and a half. We have a week and 2 days until the Senate adjourns. It is imperative the Congress pass this legislation and not just continue to talk about it.

It is wrong to penalize seniors who could not enroll by the deadline. What we all ought to be doing is to make this Medicare prescription drug program more senior-friendly. That includes exactly what this bill is. It was filed on a bipartisan basis. It is time to stop playing politics with the health care of our seniors. Waiving that enrollment penalty, backed by Senator GRASSLEY and Senator BAUCUS, is the compassionate thing to do.

We are not alone in this. Listen to the organizations that have come out in favor of S. 2810, the Medicare Late Enrollment Assistance Act: AARP; American Diabetes Association; Alzheimer's Association; American Autoimmune Related Disease Association; Asthma and Allergy Foundation of America; Cystic Fibrosis Foundation; Epilepsy Foundation; Lupus Foundation; Men's Health Network; National Alliance for Mental Illness; National Council of Community Behavioral Health Care; National Family Caregivers Association; the National Grange of the Order of Patrons of Husbandry; the National Health Council; the National Osteoporosis Foundation; the AIDS Institute; the Arc of the United States; United Cerebral Palsy; and the National Coalition for Women with Heart Disease.

That is a pretty broad spectrum of people who deal in health care, particularly with regard to seniors.

Now, somebody may say: Well, it is not paid for. Members of the Senate, it is paid for. The bill is estimated now to cost $500 million over 5 years. And this cost is offset by using part of the stabilization fund which was set up in the Medicare drug law. That fund was to be used to subsidize and entice private companies into the Medicare Program. But the fund is sitting there, and it is not needed because private plans are abundant in the Medicare market. There is money available, and it is time not to penalize our seniors.

So, Mr. President, I ask unanimous consent that the Senate immediately take up and pass S. 2810.

The PRESIDING OFFICER. Acting in my capacity as a Senator from Oklahoma, I object.

Objection is heard.

Mr. NELSON of Florida. Mr. President, given the fact that is the case, that we cannot proceed, and given the fact we have 1 week left in order to avoid this penalty, it is my hope there may be a vehicle that will come along, and that since Senator GRASSLEY and Senator BAUCUS have been trying so hard to get this legislation up, they may find an appropriate legislative vehicle on which to attach it to bring this needed relief to the senior citizens of this country.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Pennsylvania.

WRIT OF HABEAS CORPUS AND DETAINEES

Mr. SPECTER. Mr. President, I have sought recognition to discuss the issue of habeas corpus, which is the Latin term used to define the great writ from ancient England to produce the body, to determine if an individual is being lawfully held.

The writ of habeas corpus has an illustrious history in common law, in English law, and in American law. It is the focus of attention on issues now being considered relating to detainees in Guantanamo, and was the focus of attention in the Hamdan case, which is now being considered by the Congress of the United States in terms of complying with the order of the Supreme Court of the United States for the Congress to discharge its constitutional duty under Article I, section 8, to establish procedures for military commissions.

We have pending at the present time two bills: the Terrorist Tracking, Identification, and Prosecution Act, S. 3886, which has been proposed by the administration; and the Military Commissions Act, S. 3901, which has been reported out by the Armed Services Committee.

There have been extended discussions about these bills in terms of compliance with the Geneva Conventions, whether classified information may be used, whether hearsay is appropriate, whether coerced confessions can be used. But there has been relatively little attention—almost none—on the fact that both of these bills eliminate the writ of habeas corpus review.

Had this prohibition been in effect earlier, the case of Hamdan v. Rumsfeld, decided in June of this year, might not have been decided. As a matter of law, it is my legal judgment that Congress cannot act to delete the remedy of habeas corpus because the Constitution provides, as follows: Article I, section 9, clause 2:

> The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Now, we do not have a rebellion and we do not have an invasion. Those are the two circumstances under which the writ of habeas corpus may be suspended. Since neither is present and the Constitution cannot be altered by statute, the pending legislation may be unconstitutional.

As a matter of public policy, the writ of habeas corpus is also established as a statutory base in Title 28, United States Code, section 2241. In the case of Rasul v. Bush, in 2004, the U.S. Supreme Court ruled that the detainees at Guantanamo Bay have a right to file petitions for habeas corpus so that a Federal court may review the evidence which justifies their continued detention.

Many of the detainees have filed petitions, but only a few have been heard. And most have not yet had a hearing on their habeas petition.

Senator LEAHY and I have asked for a sequential referral to the Judiciary Committee from the Armed Services Committee because our Judiciary Committee has jurisdiction over habeas corpus and other provisions of the legislation which I have cited.

If you take a look at the pending legislation, it is obvious that the enemy combatants who are detained have virtually no rights, very few procedures applicable to them compared to those who may be charged with serious war crimes. And it would, indeed, be anomalous to have greater procedural protection for someone charged with a war crime, where the evidence is present to justify that charge, contrasted with a detainee, where, as the practice has evolved, there is very little information, let alone the absence of evidence, very little data, to warrant detention.

The pending legislation endorses as the exclusive review mechanism that the hearings will be held under the so-called Combat Status Review Tribunals. And this is a comparison of what the Combat Status Review Tribunals, called CSRTs, will do in comparison to the military commissions.

In the CSRTs, no evidence is presented by the Government. The proceedings are governed by what is called a proffer in criminal courts. The charges are read to the detainees, and they are asked to respond. By contrast, in the military commissions that are parts of both bills, the Government must introduce evidence which support the charges.

In the CSRTs, the detainees have no lawyers. Most speak no English and communicate through interpreters. In the military commissions, the accused detainees have the right to be represented by lawyers.

In the CSRTs, the detainees have no ability to cross-examine the witnesses against them or to see any physical evidence because none is introduced. In contrast, in the military commissions, the detainees' lawyers will be allowed to cross-examine the Government's witnesses and see the Government's physical evidence, although there may be some limitation as to classified information on a controversy yet to be worked out.

In the CSRTs, the detainees have no ability to call their own witnesses to produce evidence. In the military commissions, those rights will be fully protected through the commissions' subpoena power.

In the CSRTs, the tribunals are permitted to consider classified evidence, including, apparently, for all we know—although we are not really certain as to what happened in each individual case—there may be information obtained by torture or by means which produced flagrantly coerced confessions. That will not be the case in the military commissions.

The bills provide that the rulings of the past CSRTs are final and conclusive, with the only appeal allowed being to the District of Columbia Court of Appeals—and such an appeal would be limited as to whether the CSRTs followed their own procedures. In contrast, a full judicial-like appellate procedure is provided for appeals from military commissions.

So from this analysis, it is obvious that the worst of the detainees will be accorded far greater rights—those charged with war crimes—than all the other detainees, many of whom, according to summaries of proceedings, took no action against the United States or its allies.

This habeas corpus legislation, if enacted, will not end the court battle over detention at Guantanamo Bay. If either of these bills becomes law, there will be years of litigation as to whether the U.S. Constitution is violated. If the proposed changes to habeas corpus in these bills are rejected by the courts, we will be back for more legislative fixes and more judicial proceedings.

As I have noted, the request has been made for referral to the Judiciary Committee. There are some difficult procedural steps to get that sequential referral. I am, frankly, not optimistic it will occur. The scheduling of the floor action on these bills is uncertain at this time, depending on whether an agreement is worked out.

It is my hope we will reach an agreement on the issue of how the Geneva Conventions will apply and whether there ought to be any modifications of it. I believe the committee bill, endorsed by Senator WARNER, Senator

MCCAIN, and Senator LINDSEY GRAHAM, is correct, that we ought not to water down the provisions of Common Article 3 of the Geneva Conventions, that we ought not to modify that or have the appearance of modifying it. It is my legal judgment that what General Hayden is looking for can be accommodated within the existing recognition by the United States.

The Geneva Convention on torture was adopted in 1988 and has language which is very similar on indignities or mistreatment. And the Congress filed a reservation as to that 1988 Convention, saying that it would be defined in terms of the provisions of amendments V, VIII, and XIV to the U.S. Constitution.

My understanding is that is pretty much what General Hayden is looking for, so that it may be possible to establish the existing position of the U.S. Government on that reservation, which would be consistent with full recognition of Common Article 3, as a stand already taken by the United States, so that we would not be limiting Common Article 3 to something new or we would not be appearing to limit Common Article 3 to something new.

With respect to classified information, again, I agree with what Senators WARNER, MCCAIN, and GRAHAM have articulated, that it is not appropriate to deny classified evidence to an individual where the death penalty might follow or other serious penalties might be imposed. It is insufficient to give that information to a lawyer. And even if it were given to the lawyer, there is a problem as to whether it might be transmitted, and sources and methods might be revealed to those who could harm the United States.

As to coerced confessions, again, I agree with the Warner-McCain-Graham approach, that coerced confessions should not be admitted.

They are unfair and unreliable. When it comes to the issue of habeas corpus, I think both the administration's bill and the bill passed out of committee, with the endorsement of Senators WARNER, MCCAIN, and GRAHAM eliminating habeas corpus is inappropriate. Depending on when the bill comes to the floor, there may be an opportunity for the Judiciary Committee to hold a hearing and to have an analysis of the constitutional limitation on suspending habeas corpus and the public policy interests that are involved.

I, Senators LEAHY, LEVIN, and others will be circulating a ''Dear Colleague'' letter advising that we intend to offer an amendment if these bills come to the floor with the denial of habeas corpus in them.

Mr. DURBIN. Will the Senator yield for a question?

Mr. SPECTER. Yes.

Mr. DURBIN. First, I thank my colleague for coming to the floor. I heard him open his remarks while I was in my office, and I salute him. I don't think many colleagues are aware of the seriousness of the habeas corpus provision that is in the detainee bill coming out of the Armed Services Committee. I ask my colleague—and I only caught part of his remarks—are you going to ask that this bill be referred to our Senate Judiciary Committee for hearings on this question of habeas corpus?

Mr. SPECTER. Mr. President, in response to the question of the Senator from Illinois, Senator LEAHY and I have signed a letter to the majority leader, Senator FRIST, and the Democratic leader, Senator REID, asking for sequential referral.

Mr. DURBIN. One further question. I ask of the Senator from Pennsylvania, we understand the Armed Services Committee's jurisdiction on treatment of detainees, military commissions, and the like. If I am not mistaken, I ask the Senator from Pennsylvania, when we discuss a fundamental constitutional question, it seems to me that is an appropriate area for the Judiciary Committee to consider the merits of the question. I think I know the answer from what I have already heard in the Senator's previous statements. I hope I can join the Senators in making this request.

Mr. SPECTER. The Senator is correct. The Judiciary Committee has jurisdiction over the constitutional issue. In fact, as to the pending legislation, the Judiciary Committee has jurisdiction over Common Article 3, and the committee also has jurisdiction over changes to the war crimes.

We have submitted to the Armed Services Committee a sequence of war crimes which have been included in the bill. Regrettably, we didn't have enough time for committee action. Although, as the Senator from Illinois may recollect, I advised the committee of what we were doing and circulated early drafts so people could be in a position to comment. I think it is important that Congress move ahead to comply with Hamdan. Also, we ought to do it right. It requires some analysis. We can do it in a relatively short timeframe. Provided we focus on it and have hearings, it is going to require Senators to become acquainted with what is going on.

The fact is, Congress has been derelict in its duty in providing rules for military commissions, and it is our responsibility under article I, section 8. The Senator from Illinois and I filed legislation shortly after 9/11, 2001, to accomplish that, as did other Senators. The Congress did not act because this issue has been too hot to handle, too complicated, too dicey. It is not to the credit of the Congress, which sat back and did nothing.

Finally, in June of 2004, the Supreme Court came down with three opinions. We punted to the courts, as we do repeatedly. Thank God for the courts. Thank God for life tenure and the independence of the courts in this country, which come in to act when there has been inertia and inaction by the Congress, or inappropriate contact by the executive branch historically, and not just with this administration.

When the Hamdan case came down, the Court ordered the Congress to comply with our duty to legislate. All of this comes about because of habeas corpus. I don't believe the Congress has the authority to take away habeas corpus jurisdiction, especially in light of the specific provisions of habeas corpus, but also generally. When we considered, in a rush, the legislation last year that was passed, I was the sole voice on this side of the aisle objecting to it. It was passed with substantial support on the other side of the aisle because it was thought that at least it would not be applied to pending cases. Then there was a surprise when Justice Scalia said these colloquies were inserted by staff after the fact and there was no matter of congressional intent. He would have disregarded it. The majority opinion did not deal with the issue but just took the jurisdiction and moved ahead to decide the case.

This is not an issue which I came to recently. This is an issue that has concerned me for more than two decades. When Chief Justice Rehnquist was up for confirmation, I raised the issue in the confirmation proceedings with him as to whether the Congress had the authority to take away the jurisdiction of the Court on first amendment issues. Chief Justice Rehnquist refused to answer. Overnight we produced an article that he had written criticizing the Congress in the Whitacre proceedings for not asking about due process or equal protection, talking only about matters of lesser concern, such as Whitacre being from Kansas City and it was an honor to both Kansas and Missouri because he lived in one State and worked in the other.

Chief Justice Rehnquist, when confronted with the article, answered the question. He said Congress could not take away the jurisdiction of the Court on first amendment issues. Then I asked him about the fourth amendment, search and seizure. He declined to answer. I asked about the fifth amendment, privilege against self incrimination. He declined to answer. On the eighth amendment, crucial and unusual punishment, he declined to answer. It was a significant statement that Chief Justice Rehnquist made. As to the first amendment, the Congress could not take away the jurisdiction of the Supreme Court or the Federal courts.

There is a much stronger case that you could take jurisdiction on the first amendment rather than on habeas corpus because the Constitution says habeas corpus is suspended only when there is a case of invasion or rebellion. You don't have either. We better be careful what we do on constitutional rights. We better be careful. We were concerned in the PATRIOT Act to make sure we didn't go too far, that we could pass an act to give law enforcement protection and protect the constitutional rights, and we are struggling with the electronic surveillance issue, where we are trying to accommodate the interests of some Republicans

and many Democrats to give appropriate protection to civil rights. I think this Congress has sufficient wisdom and experience to protect America from terrorists and still respect constitutional rights.

That was a long answer to a short question, I might say to the Senator from Illinois. I appreciate his coming to lend some emphasis. There are more people who tune up their television sets, watching this lonely discussion, when there is a little colloquy and dialogue as opposed to the monotonous tones of the speaker alone.

Mr. DURBIN. I thank the Senator. If I might, I say to the Senator, I recently joined Senator ALLEN of Virginia on a trip to Guantanamo. We were met by the admiral in charge of the facility. He made it very clear in one of his opening remarks that Guantanamo is not there for punishment, but it is there for detention. He said punishment, of course, would be meted out to those found guilty of crime and wrongdoing. But the people being held there are being detained until we can determine their status. If they are, in fact, guilty of terrorism or war crimes, I think the Senator from Pennsylvania and I would quickly agree that they should be held responsible for those activities and punished to the full extent of the law. But, in most cases, for the hundreds of people in detention there, no charges have ever been leveled against them.

The writ of habeas, which basically is asking the Government to give cause why they are detaining a person, is the way to determine whether this person is being held justly and fairly. I think to eliminate that right, which is fundamental in our western civilization, raises a question as to the outcome for the lives of hundreds of people still in Guantanamo in this uncertain situation where they are not charged with any crime at all: not charged with terrorism, not charged with a war crime, but being held in indefinite status, many of them, for many years.

So I thank the Senator from Pennsylvania for raising this important issue. It is one that needs to be debated on this floor on a bipartisan basis.

Mr. SPECTER. Mr. President, one concluding statement. A group of attorneys who came to see me on this issue have been representing detainees. They produced summaries of proceedings before this body. It is shocking as to how little information there is in these proceedings under the CSRTs. I am trying to find out now if the information I have is not classified and present it in detail to Senators and to Members of the House so you can see how little information there is and how explanations are made and how people are detained without any basis, and on what appears to be a situation where there is no danger.

To the credit of the officials in Guantanamo, many have been released. But that is not sufficient. The detention of an individual under our laws is to be made by a court. When challenged, that requires a habeas corpus proceeding.

Mr. President, I thank the Chair and my colleague from Illinois.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank my colleague again for coming to the floor and raising this issue. For most people, it is a very complicated constitutional issue. I think it can be reduced to very understandable principles and values that we share as Americans. When you think back to the earliest founding of the United States, we valued so much our personal freedom, our personal liberty, and our rights as individuals, and we created within our Constitution a means to ask a basic question. By the filing of a writ of habeas corpus, we ask this question, by what right does the Government hold this person? Habeas—holding; corpus—body. One of the few words that I remember from the Latin I took many years ago. By what right does the Government hold this body, this person?

That has been a writ, as they call it, a law that has been recognized and respected for generations. It is part of our American body of law. We don't want a circumstance where the Government is wholesale arresting individuals and detaining them without charging them. There was a time, of course, during our Civil War when President Abraham Lincoln suspended the writ of habeas corpus; arrested, detained, and jailed many people without charging them. It was then an extremely controversial decision. In fact, if you read the history of the time, there were even people in the President's own political party who thought he had gone too far. President Lincoln argued that he had to do it in the midst of a civil war.

We look back on it now and wonder if perhaps this was excessive conduct in the name of security. We ask the same questions today. Are we doing things in America today that are going too far, things that infringe on our basic values and how we define ourselves as Americans in this diverse world? Are we doing things which, on reflection, history will not judge in a positive way? I think, unfortunately, the answer is, yes.

The issue of torture is one such issue. We, for decades and generations, had held to the standards of the Geneva Conventions. We basically said that civilized countries in the world act differently than those that are not civilized. Civilized countries, even in time of war, will not engage in torture, cruel, inhumane, or degrading treatment of prisoners. That has been a standard which we have lived by for more than a century in the United States, a standard we have proudly proclaimed as our own, and a standard by which we have judged other nations which we believe have crossed that line.

After 9/11, there were serious questions raised by this administration as to whether we could continue to live under the principles, the standards of the Geneva Conventions. For a period of time, there were memos that circulated at the highest levels of our Government which tried to redefine torture and redefine treatment of prisoners. Those memos, sadly, were distributed. It appears that in some isolated cases, they were followed. It also appears that they were discredited and have been rejected after they had been used as a basis for American treatment of prisoners. We know that now. The facts have come out. Some of the people who were engaged in the preparation of those memos are at the highest levels of our Government today.

Those memos, so-called torture memos, suggested things such as one very noteworthy example: the use of guard dogs, turning dogs loose on prisoners to frighten them into submission or cooperation. That was a departure from what the United States had ever done in the past. That was part of a memo which was prepared at the highest levels of the White House and Department of Defense, a memo which has been acknowledged by the Administration, but which is now being repudiated by them. They are saying it is no longer being followed.

One of the architects of one of those memos is a man named William Haynes. Mr. Haynes recommended things we could do to prisoners to try to get more information. That was distributed, and not long thereafter, we had the Abu Ghraib prison scandal. One of the photographic images we can all recall is the picture of a guard holding a dog on a leash threatening a prisoner. That guard, an American soldier, was charged with violation of the law and has been imprisoned for that conduct.

The irony is that Mr. Haynes, one of the authors of this memo which suggested the use of these dogs, not only was never charged with a crime and was never imprisoned as this soldier was, who was working at the Abu Ghraib prison, but this individual is now being proposed for a Federal judgeship, a lifetime appointment to the second highest court in the land. So, at one level, we are sending soldiers, privates, corporals, and sergeants to prison, and at the highest levels where these memos were being written, we are rewarding the conduct of those who wrote them and suggesting they deserve a lifetime appointment to the Federal judiciary. I believe that is inconsistent and unfair, and if we are going to have a standard and a rule of law, it has to apply at the highest levels as well as to our soldiers. In this case, it did not.

Now we have before us the question raised by the Senator from Pennsylvania which we may face in the next few days. The question is this: Of the hundreds of people who are now being held in Guantanamo without any specific charges, what will happen to

them? Will we ever have to charge them with wrongdoing? At this point in time, few, if any, of them have been charged. Over 100 have been released, incidentally, after being incarcerated there for long periods of time. The writ of habeas corpus is the means by which that detainee in Guantanamo and in other settings raises the question: By what right do you hold me in this prison? What crime do you charge me with? What is my wrongdoing? That is the writ of habeas corpus. The bill that is proposed from the Armed Services Committee would eliminate the right of habeas corpus for those who are currently being detained.

I raise this because I have visited this Guantanamo facility, and was told that we are not punishing anyone there because we don't know that they have committed a crime, they haven't been convicted of a crime, and we are only detaining them. But, by eliminating the writ of habeas corpus, we are eliminating that prisoner's right to step up and explain what happened, to tell their side of the story. There is no guarantee we will believe their side of the story. There is no guarantee they will be released. But our basic constitutional principles, the principles we have followed, have given individuals that right to question the Government.

Earlier today, I was visited by three attorneys from the city of Chicago, which I am honored to represent. Thomas Sullivan is a former U.S. attorney, Jeffrey Colman is active in the practice of law in that town, and Gary Isaac is another lawyer. They came to me because they have been involved in representing the detainees at Guantanamo.

Mr. Sullivan, a former U.S. attorney, a former prosecutor, well respected not only in Chicago but around the United States, has raised questions about the treatment of these Guantanamo prisoners. He left with me a description of one of his clients in Guantanamo, a client he represented pro bono, for nothing. The client's name is Mr. Abdul Hadi Al-Siba'i, who was taken into custody in Pakistan in December of 2001. Mr. Sullivan became his lawyer in 2005. After speaking with him and his family through interpreters and visiting him at Guantanamo, he learned the story.

It turns out Mr. Al-Siba'i had been employed for 20 years as an officer in the police department in Riyadh, Saudi Arabia. He took a two months leave of absence in August 2001 to go to Afghanistan to build schools and a mosque. He was captured, first by forces in Afghanistan and then turned over to the United States. He presented his airline tickets to show the journey he had made from Saudi Arabia to Afghanistan. The passport showed where he had been. The tickets showed the dates he was required to return, and he requested that the people who were detaining him in the United States verify the information. If they had a question, call the Riyadh, Saudi Arabia, police department and they would explain who he was, what his background was, and why he was given this two months leave of absence to go into Pakistan.

He was denied that request. The person presiding over his tribunal said:

I denied that request because an employer has no knowledge of what their employees do when they are on leave.

I can't quarrel with that statement, but any good lawyer would tell you that you try to sift through the evidence and testimony to come out with what you consider to be the truth, and that would mean at least taking the time to ask the question: Was this man a police officer in Saudi Arabia? Did he notify them he was taking a two months leave to work among the poor in Afghanistan? Those are simple questions which one would expect to be asked. They weren't.

Mr. Al-Siba'i explained what occurred when he arrived in Pakistan, was taken into custody by the Pakistani Army, and turned over to the U.S. forces. He said he joined the army in Saudi Arabia when he was 17, got married at 18, and has had a wife and stable job for almost 20 years. He talked about his trip to Sudan during a time of floods when he worked with poor people. He explained what he tried to do—charitable work for those he thought were in need. He went through the long description of the time he spent traveling. He was very open in the course of this tribunal, but at the end of the day, they said: The information is not good enough; you are going to be detained as a prisoner in Guantanamo. That was in 2001.

In 2006, 5 years later, without ever facing a formal charge of any wrongdoing, without any clear investigation into the circumstances he described, he was released from Guantanamo and returned to Saudi Arabia without any explanation whatsoever.

I suggest to those who are following the comments being made on the floor that if an American employee, an American citizen, or an American soldier was held under similar circumstances, we would have a right to be upset. It is one thing for us to acknowledge wrongdoing by an American—it can happen—but it is another thing to expect simple justice. And simple justice requires that someone be charged with a crime.

Just a few hours ago, I was in my office and met with a reporter for the Chicago Tribune named Paul Salopek. Just a few weeks ago, Paul Salopek was in Africa doing a story for National Geographic. He wandered across the border from Chad to Sudan and was arrested and charged with espionage. He was writing a story for the National Geographic about local African tribes. The charge, of course, was not well-founded. Many people came to his assistance, not the least of which was Gov. Bill Richardson of New Mexico, who traveled to Sudan and persuaded the President to release him. But here was an American citizen, and many of us were concerned about his safety and future when we knew that the charges against him were preposterous and they didn't make sense.

Imagine an American citizen being held, as this Saudi was, for 5 years without a charge. The reason he was finally released was that a writ of habeas corpus was filed to ask whether a charge was going to be leveled.

So now we have this debate going on in the Armed Services Committee. I salute my colleagues, Senator WARNER, who was on the floor a few moments ago, as well as Senator MCCAIN, Senator GRAHAM, Senator COLLINS, and many others who have said they agree with the approach that has come out of the Armed Services Committee. It establishes a standard for military commissions so that the 14 or so individuals who are going to be tried will be tried under standards that are consistent with American values and American justice. That speaks well of our Nation. To do otherwise would raise the same questions raised by General Colin Powell just a week ago. It would raise a question about our moral standing in this world if we don't live by the same standards we preach day in and day out. I think it is a good thing and consistent to have those judicial standards and principles of justice in these military tribunals.

But the same bill coming out of the Armed Services Committee removes the writ of habeas corpus for all of these other detainees, the hundreds who are being held. So while this bill would hold people charged with crimes to a higher standard of treatment consistent with American law, the bill would completely eliminate the most fundamental principle of law—the writ of habeas corpus—when it comes to these other detainees who may never be charged. That is inconsistent, and it is wrong.

We should trust our system of government despite our fear of terror, despite our experience on 9/11. We shouldn't lose our way and abandon the most basic principles and values which guide our country. Those constitutional principles have weathered many storms, including a civil war which claimed more lives than any war in the history of the United States. Even now in this age of terror, even now living in a dangerous world, let's not abandon these most fundamental principles.

I thank the Senator from Pennsylvania for his earlier comments. I hope we have a chance to debate this issue at length on the floor.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I come to the floor this afternoon to speak about the issue which is before us at the moment; that is, H.R. 6061. We voted on a motion to proceed to debate today and invoked cloture on that motion by getting a substantial number of votes. Now we are in the next phase of the

rule process in which we would actually move to the bill, debate it, and possibly amend it.

I voted this morning to move this bill forward because I believe it is important for the American people to understand that we are very serious about border control. If this bill serves that purpose, then that is a step in the right direction.

It is not my intent to come here and say it is a bad bill. It is my intent to come to the Senate floor and talk about what we have done to date in the area of border security and that a piece of paper, a piece of legislation, does not a safe border make. It establishes the legal basis for which we build upon a foundation for safe border and border action, but it is the financing of it, it is the funding of the necessary construction, the supplying and the training of Border Patrol men and women, and creating the devices and vehicles necessary to effectively monitor and control our borders that build a safe border.

Step 1 is a very critical process this Senate, and the Congress itself, has been involved in for some time; that is, the recognition of a broken immigration system and an unsecured border structure in our country that has allowed, over two decades, possibly 8 to 10 million foreign nationals to come into this country illegally.

America didn't awaken to this issue until after 9/11. It awakened because it found that some who had come, legally and illegally, were intent on delivering the citizens of this country an evil act, and that happened. Not only did it kill nearly 3,000 of our fellow country men and women, but it launched this country into a new dimension of foreign policy that we had not been involved in or as intent on as we should have been a long while ago—a war against radical Islamic fundamentalism and the tools they use in that war known as terrorism.

That is where we are today. It has swept our country. It is the political debate of the day. It is the frustration of the American citizen to try to understand why we are where we are today and what we are doing and why young men and women bearing the uniform of the United States of America are dying in a foreign land or foreign lands. All of this issue is really one. It is a combination of understanding the world we live in, and that is a world that is not as safe as we would like it to be, and there are very real enemies out there. But it is also understanding a new world that we live in right here on the North American Continent and one that we have ignored for years; that is, creating secure borders and defining and designing a well-run immigration program that responds to our needs and our economy and, at the same time, is fair and responsible to those foreign nationals who would like to come to our country to work.

I began to work on this issue not just a year ago, not just 2 years ago, but in 1999. I first looked at it through the eyes of American agriculture when they came to me and said: Senator, we have a problem. We have a very big problem. The H–2A program that supplies foreign national workers to agriculture doesn't work. It is broken. It is bureaucratic. It is nonfunctional and doesn't meet our seasonal needs. As a result, that Federal H–2A guest worker program only supplies about 40,000 to 45,000 workers. But we need and have over 1 million in our workforce who are foreign nationals and, frankly, they are illegal, and we know they are. It ought to be fixed because we don't want to base our economy as American agricultural producers on an illegal process because someday it may do us damage.

So I began to work, along with several others, to try to build and propose changes within the immigration laws to create a legal guest worker program. We were doing that in 1999 and 2000. And in 2001, as we all know, America's roof literally fell in as we were attacked by the terrorist elements of radical Islamic fundamentalism.

America became angry and frustrated. We began to find out that our immigration process was broken. I knew about it. I was working on it at the time. What I kept saying to my colleagues in counseling them is, as we secure our borders, let's also redo our immigration laws to identify the illegals who are in our country—treat them justly and fairly but identify them—to see if some of them deserve to stay here and work, while at the same time making sure we have a system that in the future recognizes the need for immigrant labor in our economy and specific to agriculture.

We worked on that a long while.

This year the Senate passed a comprehensive immigration bill. Parts of it I agreed with and parts I disagreed with. I voted for it to move the process along because I thought it was critically necessary because I didn't want to get the cart in front of the horse. I wanted the horse in front of the cart, and the horse in front of the cart is border security as a first line of defense in monitoring and controlling illegals in our country. The second line is a legal process which makes sure that those who are here are legal, and those who want to come to work in our economy are legal. And if you don't do them both in tandem, I think you create phenomenal problems for our country and our economy.

While we have been doing all of this, some would say we have done nothing on the border. That is why we need to pass H.R. 6061. If they are saying that, they are not looking at the facts, and they don't recognize what has happened.

Let me read some of the facts of what we are doing. We have increased funding by $7.97 billion—billion—for border, port, and maritime security. We spent $34 billion on the border and port and maritime security to date. We have added 3,736 new Border Patrol agents, out of a total of 14,000, whom we are training and supplying over the next 5 years. And it was the Craig-Byrd amendment of 2 years ago, at the time of appropriations on the floor, when real dollars went into the program—$500 million a year—to train those border patrolmen that we are talking about right here at this moment.

So if you detain and arrest foreign nationals who are illegal in our country, what do you do with them? You have to hold them. We didn't have anyplace to keep them. We have now added 9,150 new detention beds out of a total of 27,000.

We are now building 370 miles of fences in the congested urban areas along our southwestern border with Mexico. We are doing it right now. The legislation before us simply talks about it. Concrete is being poured, wire is being strung, and double fencing is being created as we speak. Why? Because many of us thought it necessary 2 or 3 years ago to get started in this process that is critically important right now.

In the area of border tactical infrastructure and facility construction—and by that we are talking about surveillance equipment, electronics, sensing devices—$682 million is being spent. The numbers go on and on and on.

Why I am here talking about this is because we are today building a border system to secure and control our borders.

Just before the Easter recess, I was one of those privileged to be at the White House to talk to our President about our chairmanships. I am chairman of the Veterans' Affairs Committee. And that afternoon the President said to me: Well, Senator CRAIG, how are things in Veterans?

I said: Mr. President, I don't want to talk about veterans today. I want to talk to you about something that I think is critical and necessary that we do now.

He said: What is that?

I said: I think you need to declare a state of emergency on our southwest border, nationalize the Guard, assemble our National Guard on the border and close it.

He looked at me with a bit of surprise. He said: How can you propose that? You are the advocate of AgJOBS, Senator CRAIG. You are the guy out there promoting reform in immigration right now.

I said very simply and very clearly: Mr. President, we have to build credibility with the American people that we have lost because our borders are not secure and we have not controlled them.

Now, all of us and all who may be listening know the rest of that story. There are now 6,000 Guard men and women deployed to our southwest border, and that allows us to more effectively utilize the Border Patrol along our border and to spread our Guard out into the broad expanses of a 2,000-mile border which are maybe less dangerous

than the congested areas where the greatest numbers come across. Our Guard men and women are not policemen. Our border patrolmen are. They are trained. They are officers of the law so they can detain and arrest. But at the same time, the combination of using our border patrolmen, our National Guard men and women, and our Border Patrol is the right combination.

The reason I talk about this and set this idea in front of my colleagues is to express what is really going on out there; that is, this country is investing heavily on the southwestern border as we speak. We are spending billions of dollars. Fences are being built, and there are literally thousands of our men and women on that border securing it.

Is it working? Yes, it is working. Is our border closed? No, it is not. It is a 2,000-mile border across arid, desolate, and oftentimes extremely rugged terrain, and we will have to continue to invest to do that.

Let me tell my colleagues and show my colleagues the proof of what I am saying. The border is closing. My colleagues will remember that cart-and-horse analogy I used a few moments ago, where if we didn't close the border and get a comprehensive legal process to bring migrant workers into our country for the sake of agriculture and other industries, we could do real damage to our economy. So the border is closing, but we haven't passed a comprehensive reform bill. In fact, the politics would suggest we can't get there right now. And most assuredly, the U.S. House of Representatives, in my opinion, did the wrong thing this summer. They went out and condemned the work product of the Senate when they should have been at a conference table trying to work out our differences. They should have been trying to solve the very real problem that is now embodied in all of these press releases which are pouring in from across the country that speak of the crisis in American agriculture. It is a crisis born out of the reality of what I have just talked about: that a border that should be closed and secured is, in fact, closing and being secured.

Let me start with Idaho: ''Potato Growers Struggle Without Immigrant Labor.'' The potato harvest is now just starting in the State of Idaho. The packing sheds will soon be full as that marvelous Idaho baking potato begins to sell in the world market. There aren't enough people available this year to help harvest those potatoes, and many of those people who are not available are migrant workers. The reason they are not there is because they can't get there. The legal system can't function quickly enough to get them there, and those who were coming illegally aren't coming because the border is closing.

Another press release: ''Potato Growers Face Labor Shortage.'' That is just in Idaho where tragically enough, and in a real sense, we probably have 30,000 or 40,000 illegal foreign nationals working in agriculture and other work areas every year, and our unemployment rate is 2.5 percent, which means we are at full employment. But we need that kind of labor, and it is not coming.

Now let me continue—but only for a moment because other colleagues are here on the Senate floor to talk about this issue—down through these press releases. My colleague from California is on the Senate floor. She represents the largest, wealthiest agricultural region in our Nation known as the great San Joaquin Valley. There is no other agriculture like it in the world. If you haven't been there and visited, it is simply worth your time. Every fresh fruit and vegetable known to any consumer in this country is grown in the great San Joaquin Valley. I have always marveled at that agriculture. It is also true the Senator from California and the San Joaquin Valley probably host more illegal workers than any other area in our country. What is happening there today is that crops are rotting in the fields. Fruit is not being picked. Vegetables are not being harvested. That kind of agriculture that is intensively hand labor agriculture is suffering. I am told by some we could literally lose the raisin industry of our country, and that would be a tragedy if the politics of the Congress will not allow us to get to a legal system to allow that type of workforce to exist in our country today.

I could walk my colleagues through hundreds of press releases and the stories now being told by American agriculture of nobody there to help them pick their crops, to supply the marvelous vegetable stands of the produce sections of America's retail food industry with the abundance that we have all known. We saw it start in February in Yuma, AZ, in the great Imperial Valley where billions of dollars' worth of vegetables are picked in February and March to supply us—lettuce and celery and all of those kinds of things that we are used to. A third of it didn't get picked this year. That is a crop that is worth $3.2 billion at the farm gate, and a third of it rotted in the fields because we in Congress couldn't get our act together. That is a tragedy and it is a shame.

It is believed between now and the end of harvest, or between now and next year, American agriculture could literally lose billions of dollars' worth of fresh produce that would go to the supermarket shelves of our country for all of us to eat, all of us. And if it isn't there and there is a limited amount, you know what happens. The price starts heading up.

Those producers of those products tell me they have advertised in their communities, they have pled with people to come out and work. They said they would increase their salaries substantially. But nobody is there to do the work. Americans do not do stoop labor anymore. It is a reality that we ought to face. Yet we have not been willing to face it.

Yes, we need a fence and we are building it. Yes, we need border security and we are accomplishing it, and we have not finished. Clearly, for the safety and security of this country our borders are more important than nearly anything else. But if you cannot feed your country, if you are going to lose your agriculture, if you are going to cause bankruptcies that are no fault of the farmers themselves, then you are doing some very real damage—along with your unwillingness to recognize the reality of a law that no longer works and a work product we are trying to accomplish at this moment.

We will probably have to go through an election. We will probably have to get the politics of the election out of the way before the House and Senate will come to the reality of the problem that is clearly before us today because we are just a week and a half from adjournment or recess until after the election.

The kind of comprehensive work that we should have been doing in August and we should have been doing in September turned into politics and not constructive work. I hope the House bill in front of us is not an extension of those politics and politics alone. I hope it really is meant to fit into a total package of border control and comprehensive immigration reform that allows this country and our economy and our hard-working agricultural people a legal, transparent, and open guest worker immigrant labor force. We need it. We have always needed it. We should not be denying its reality today.

The Senate attempted to accomplish that. We argued mightily on immigration reform on the floor of the Senate for nearly a month, and we do not all agree because it is in itself a very contentious issue. It has all aspects of the American culture and the American emotion tied into it. But as we studied it I think a majority recognized the reality of doing the right thing. The horse and the cart have to be connected. Border control and border security is the first line of defense, and a legal structure behind it that gives employers a legal, identifiable workforce is necessary and appropriate, and they have to be connected.

Let me close with this thought: We do not reform immigration laws in this country, we let them go. Politically we will not handle them. But we will continue to tighten a fence until our 2,000-mile land border is complete and the border closes. There will be a new phenomenon emerge in the port of Los Angeles along the coast of California, and they will be called ''boat people.'' Because those who want to come here to work, once we have created the fence across the land surface that they now trek, will find another way to get here. Somebody in a fast speedboat will charge $1,000 a head and they will pick them up in Mexico and shoot them around the water and across the waters and into the coastline.

My point is simply this. You have to have two things that work here to

make it work. You have to have border security and you have to have a law, a law that works, so when that employer hires a foreign national, the ID card is real and they know they are hiring a legal person. I am not going to put American agriculture or any other law-abiding employer at risk when they need people to get the harvest out unless we do so in a way that says we will sanction you if you hire somebody who is illegal, but we are going to make sure that you have a workforce that is legal and has the kind of transparency of ID and uncounterfeitable documents that are critical and that are in the Senate bill.

Those are some of the issues we need to talk about and we are going to ignore now until after the election. Here are the press releases. Billions of dollars will be lost in American agriculture this year and American consumers will pay an increased price for the quality produce they buy on the fresh fruit shelves of our country. It is a reality. It is happening as we speak.

I thought it was important that I come to the floor to talk about it. Most want to simply ignore it because the politics of the issue is simply too difficult to deal with. It is not too difficult to deal with. We can do both as a great nation. We can secure our borders. We can improve our immigration laws. We can provide a legal and necessary guest worker/migrant worker program for the segments of our economy that speak to that type of workforce. It is our responsibility. I hope we do not shirk it or turn our back on it.

American agriculture, along with a lot of other segments of our economy, will suffer if, in fact, we do not have the political will to accomplish the right and responsible issue and things at hand.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Mr. President, I rise to congratulate the distinguished Senator from Idaho on his comments. I subscribe to them 100 percent. I congratulate him and thank him for the leadership he has provided on the AgJOBS program. I don't think there is anyone in the U.S. Senate who knows more about what the needs in agriculture are across this great land than Senator LARRY CRAIG. He has been consistent and he has been devoted. I think his expressions here today are really the expressions of virtually everyone in the Senate who knows what is happening in their own State with respect to agriculture today.

I also rise joining you, Mr. President, as a member of the Judiciary Committee, and the one who moved the AgJOBS program on to the immigration bill that is part of the Senate bill. I come here with a plea and that plea is, if there is going to be a border security bill before the full U.S. Senate, add the AgJOBS bill to it, because it is a crisis and it is an emergency and there is a practical need to do so.

It just so happens that there are two amendments at the desk that would do this. There is a Republican amendment on AgJOBS sponsored by the Senator from Idaho, and there is a Democratic amendment on AgJOBS sponsored by the Senator from California. They are one and the same. They could be easily added by either one of us and either one of us is willing to cosponsor the amendment of the other. The reason is because it is in fact an emergency.

This is harvest season out in all the great States. I was once told—Senator CRAIG, you know him well—by Manuel Cunha, of the Nisei Farmers League, just for raisins alone in my State, it is 4 counties and it takes 40,000 workers to harvest those raisins.

The Senator mentioned that California is so large in agriculture. I want the President to know that it is a $31.8 billion industry. That is in 2004. It is an enormous industry. We have 76,500 farms in California. I am asking every one of those farm owners to weigh in at this time. Let the Senate know that there is now an opportunity to see that you have a certain, stable workforce. Weigh in with the Senate and say: Put AgJOBS on the border security bill.

We have 1 million people who usually work in agriculture. I must tell you they are dominantly undocumented. Senator CRAIG pointed out the reason they are undocumented is because American workers will not do the jobs.

When I started this I did not believe it, so we called all the welfare departments of the major agriculture counties in California and asked, Can you provide agricultural workers? Not one worker came from the people who were on welfare who were willing to do this kind of work. That is because it is difficult work. The Sun is hot. The back has to be strong. You have to be stooped over. It is extraordinarily difficult work.

For a State as big as mine, there is an immigrant community which is professionally adept at this kind of work. They can pick, they can sort, they can prune, they can harvest—virtually better than anybody. This is what they do. This is what makes our agricultural community exist.

It is very hard for a farmer to hire a documented worker. It is very hard to find that documented worker. So if they are going to produce, they have to find the labor somewhere.

My State produces one-half of the Nation's fruits, vegetables and nuts. One-half comes from California. We produce 350 different crops. We have an opportunity now, with this bill, to get adequate labor for this harvest season on this border security bill.

We know the votes are here in the Senate. We know the votes are in the House of Representatives. We know the President would sign the bill. Why not do it? Why not do it? Both Senator CRAIG and I want to plead with the leadership of the Senate, allow us to put this amendment up before the Senate. We can limit our debate. We know the votes are there. Let me ask the Senator, when this matter came before the full Senate; that is, before the immigration bill, how many votes did you have for the AgJOBS program?

Mr. CRAIG. I believe when there was a clear and clean vote on AgJOBS alone there were 53 who voted for it that day and there were 4 absent who would have voted for it. I believe there are between 58 and 60 votes for the AgJOBS provision and bill the Senator speaks to.

Mrs. FEINSTEIN. I actually believe, if I might respond, that there are 60 votes because of the amendments that we made in Judiciary—which certainly brought me along, and I wasn't there before.

Mr. CRAIG. That is correct.

Mrs. FEINSTEIN. And I think it brought others along as well.

Mr. CRAIG. If the Senator will yield, she makes a tremendously important point. The original AgJOBS bill that brought the vote I just spoke to is not the bill before us now. The amendments that the Senator has brought and the amendment that I brought—because the Judiciary Committee itself changed some of it at the Senator's guidance and direction, and on the floor we added additional amendments—added the safeguards and protections and fines and the requirement of paying back taxes, to cause that illegal, who might become legal through this process, certain responsibilities that were not in the original bill.

Mrs. FEINSTEIN. That is correct.

If I may, through the Chair, I would like to ask the Senator one question. He mentioned the H–2A Program which in my State has not been a widely used program. This is a reform, also, of the H–2A Program, to make it more broadly applicable across the line. Is that not correct?

Mr. CRAIG. The Senator is absolutely correct. It identifies and deals with those agricultural workers who have been here for 3 years or more, who are undocumented, who could become legal. That is step one. Then it deals with a reform, streamlining of and a more usable H–2A Program, to implement an effective guest worker program.

The point the Senator is making I think is very important for the Senate to understand. If we were to pass AgJOBS tomorrow, if it were to become law, many agricultural workers who were once in the field working but may have moved somewhere else in our economy with the opportunity to become legal would return to agriculture. It is not letting more across the border. It is causing those who have moved to construction and housing and other places to say, Gee, you mean I could become a legal worker if I went back to agriculture and stayed there for 150 workdays?

The answer is yes. There could be a near immediate relief brought by the passage of the AgJOBS provision.

Mrs. FEINSTEIN. The Senator is absolutely right. I think he has made an

excellent point. We know that many of the workers in agriculture who are undocumented have gone on to work, for example, in construction, in the service industry, in the restaurant industry, in the hotel industry, and so on and so forth. But they work in the shadows. They work with fear today.

The program that the Senator and I are speaking of is not just a pile of programs. This is a 5-year sunset program. But you would see how it would work. You would then have documentation of every individual that is legally working in that program.

In my State of California, growers are reporting that their harvesting crews are 10 to 20 percent of what they were previously due to two things: stepped up enforcement, a dwindling pool of workers, and the problem that ensues from both.

We have an opportunity to put AgJOBS on this bill, a modified AgJOBS, reforming the H–2A program, pilot AgJOBS for 5 years. I will explain very quickly how that works. I think it is important that people understand this.

The first step would require the undocumented agricultural workers apply for a ''blue card,'' if they can demonstrate that they have worked in American agriculture for at least 150 workdays over the prior of 2 years. The second step requires that a blue cardholder must work in American agriculture for an additional 5 years and work 100 days a year, or 3 years at 150 workdays a year; again, a blue card, biometric, would be documented. For the first time you would know who the worker is. The farmer would have certainty that he can hire that worker. If the worker meets this expected work requirement, they will then be eligible for a green card. Employment would be verified through the employer-issued itemized statement, pay stub, W–2 forms, employer letters, contracts, or agreements, employer-sponsored health care, timecards, or payment of taxes. The program is capped at 1½ million blue cards over 5 years. It will not have an annual cap.

I have explained it. My State alone has a million agricultural workers. How many does Idaho have? I ask he Senator through the Chair.

Mr. CRAIG. We are not quite sure. We believe it could be between 35,000 and 40,000.

Mrs. FEINSTEIN. I thank the Senator very much. That may be a much smaller amount.

But virtually every State represented in this Chamber can come forward with a like amount of people. Virtually every Member in this Chamber can come forward with problems they are having with harvesting at this particular point in time.

I am told there are problems harvesting citrus in Florida, apples in New Hampshire, strawberries in Washington, and cherries in Oregon. In Wyoming, it has been reported that the labor shortage played a central role in the eminent closure of the $8 million Wind River Mushroom Farm.

Let me quickly run through a couple of other things.

Perhaps the most impacted are the organic farms, which are highly labor-intensive. Hand-picked crops such as at Lakeside Organic Gardens, which happens to be in my State, are suffering as fields go untended and acres have been torn up because there is no one to harvest them. The situation is so bad that this particular farmer, Dick Peixoto, has been forced to tear out nearly 30 acres of vegetables and has about 100 acres that are compromised because there is no one to weed them. He estimates his loss so far this season to be $200,000. That is worse than anything he has seen in 31 years of farming.

Some fields in the Pajaro Valley in Santa Cruz County are being abandoned because farmers can't find enough workers. Farmers in that area say there are 10 to 20 percent fewer workers available to harvest strawberries, raspberries and vegetable crops. That is the great Pajaro Valley that produces artichokes and acres and acres of row crops. They say we have sustained strawberry and raspberry losses due to shortage of labor.

Strawberries lost are approximately 100,000 cartons for the fresh market, raspberries approximately 50,000 cartons. Due to the shortage of labor, we were unable to harvest 900,000 pounds of lemons and 128,000 pounds of grapefruit.

These are some examples of what is happening. You can pick up newspapers, the San Jose Mercury News, headline: ''Worker Shortage Crippling Farmers.'' It goes on and depicts it.

Morgan Hill: Farmers are reporting a shortage of labor to harvest crops forcing them to take huge losses. The impact is mixed, varying with the amount and type of crops a farmer is growing. Those growing more fragile crops such as strawberries and peppers have been scrambling to find enough workers to pick the harvest.

This goes on to say they cannot harvest their yields. Labor pains increasing for the great San Joaquin Valley that Senator CRAIG spoke about. Manuel Cunha said symptoms of labor shortages are showing up with fewer pickers in the Valley's orchard.

Between the tree fruit guys, the crew sizes are varying from a crew of 20 to 22, down to 9 to 15. What is happening now is we are starting to see a trend going toward table grapes. The Valley is starting to get into the table grape harvest in the Arvin area. The word I am hearing is that the table grapes may take workers from tree fruits because the free fruit workers are only working so many hours in the day because of the demand. Union-produced labor shortages became more pronounced in the coming weeks with the start of the raisin grape harvest.

It goes on like this in article after article.

The Farm Bureau Federation of my State: Headline: ''Labor Shortage Teeters on Critical Edge.''

As the border with Mexico tightens, and Congress continues to drag its feet on passing comprehensive immigration reform, farmers and labor experts say that the California farm labor pool is rapidly shrinking. A lag in reporting labor statistics makes it hard to pinpoint exactly how short the labor supply really is, but many growers put the gap again at about a 10 to 20 percent shortage Statewide.

This goes on and on, report after report.

There is rarely a time where issues come together and it is possible to move aggressively on something such as this. This is one of those times. AgJOBS has been debated on the floor of the Senate. It has been debated in the Judiciary Committee. It has been amended. It has come out of part of the immigration bill.

Senator CRAIG and I have worked to see that the amendment at the desk remedies all the problems that were brought up in the last floor discussion. It is ready to go. It can be added to this bill. It will pass in the House.

Why won't the leadership allow this amendment? It would be one thing if there was not a crisis out there. It is another thing if there is a crisis. And there is a crisis. Everyone in this body knows that. Everyone knows farmers are scrambling. Everyone knows farmers are losing their crops. Everyone knows there is produce on the ground that can't be harvested. Why don't we do something about it? And everyone knows that agricultural labor in the United States of America is virtually dependent on undocumented workers. This is a way to document them. This is a way to enhance security. This is the way to get the workforce for our farming communities that we need.

I went to ports, and I saw boxes and carton after carton of export products at the ports. We depend on exporting our fruit. You can't do it if you can't harvest it. What happens when the prices begin to rise in the markets? And they will. Lettuce that can't be harvested, tomatoes that can't be harvested, almonds, raisins, grapes. We had a chance to do something about it, and you have Senators standing here on the floor saying we could do something about it now, it will pass, it will be signed, it will go into law.

AgJOBS is the one part of the immigration bill about which there is uniform agreement. Everybody in both bodies knows that agriculture in America is supported by undocumented workers. As immigration tightens up, and they begin to pull people and deport them, as farmers have trouble finding them, as they hide in the shadows more, the result is our crops go unharvested.

We are faced today with a very practical dilemma and one that is so easy to solve. The legislation has been vetted and vetted and vetted. Senator CRAIG, I, and a multitude of other Senators have sat down with the growers, with the farm bureaus, with the chambers, with everybody who knows agriculture, and they have all signed off on the AgJOBS bill. Why don't we pass it? What kind of a plea will be heard? How

many farmers have to be ruined to prove a point that I don't understand, that I can't fathom, that I can't believe we turned down this opportunity to solve a real problem.

If you want a Republican amendment, it is at the desk. If you want a Democrat amendment, it is at the desk. They are both the same.

I am simply here to say, Mr. Leader, let this come to the floor. Mr. Leader, take the steps that can save American agriculture right now. Leader, pass this bill which has be vetted, which has been debated, which has been discussed in both Houses, several committees and on the floor of the U.S. Senate. Simply bring this amendment to the floor. Don't fill the tree and now allow this amendment.

I say once again, the 75,000 farmers in my State, if there ever was a time to weigh in, this is it. If there was ever a time for you to pick up that phone and call every Member of this body and anyone you can and say, Hey, I am a farmer, and I can't find labor to harvest my crop, this is a bill that can help me, and I want you to pass it now. In my State, 76,000 farms. If half would do it, if a quarter would do it, if a tenth would do it, we would get this bill passed. For farms in other States, this is your moment. Stand up, weigh in. We are, after all, a representative democracy. We represent people. We represent States. These people and these States have weighed in, in the press, and said: We are in trouble. We need help.

Now is the time. I say to the Republican leader of the Senate, do not turn your back on the farm community of America. This community needs undocumented labor to plant, to prune, to clear out weeds, and to harvest. That has been the case for years. Give it certitude. A pilot program; 5 years; 1.5 million blue cards over the 5 years; specific requirements; taxes paid; filing with the Government; fines paid. But people can work and harvest the crops. I say to the Members of this Senate, it would be a terrible tragedy if we turn our backs on the breadbaskets of America. We have an opportunity. It is so simple. Just enact this AgJOBS program now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Mr. President, I am pleased to follow the distinguished Senator from California and the distinguished chairman from Idaho. They make a compelling case. I represent an agricultural State in the great State of Georgia. I understand the difficulties they have outlined. They have also given me a couple of points to follow on to demonstrate how important it is that this Senate, in fact, embrace comprehensive reform but do it in a two-step process where we ensure our borders.

The distinguished Senator from California made the following statement: The reason we have so much illegal immigration today is because Americans don't do the jobs or won't do the jobs. I submit that is partially right.

The reason we have so much illegal immigration today is because it is easier to get into the United States illegally than it is legally. At a time of war on terror, that is a huge problem. We owe it to ourselves to fix our immigration system in a tandem, in-step process that guarantees security and then reforms immigration to meet the demands of American business, American agriculture, and American industry.

We do not find anyone trying to break out of the United States of America. They are all trying to break in, for a very good reason. This is the land of hope, opportunity, and promise. We have to return to the day where the way to come to this country is legally and not illegally. The best way to do that is to make illegal immigration into this country untenable. The way to do that is go from making promises to actually causing reality to take place on our border.

I support the motion to proceed on this House bill, H.R. 6061. I support Senator SESSION's amendment to the original bill in the Senate to put up a barrier. I support authorizing them. But I remind my colleagues in this body that we do two things that start with ''a'': we authorize and appropriate. An authorization is a promise, and an appropriation is a commitment. It is time in terms of securing our borders that this Senate and the body across the hall made a commitment and made border security a reality.

I commend Chairman JUDD GREGG on the tremendous work he has done. Chairman GREGG is precisely correct. We are making progress toward securing the border. However, we have not closed the deal. We have not finished the appropriation. We have not gone from the authorization commitment that it will take to do so. Until we do, we can never have a meaningful immigration reform program.

I suggested, Senator CORNYN has suggested, Senator SESSIONS has suggested, and Senator FEINSTEIN just made the statement that this is truly a national emergency. If it is, it is truly a time for an emergency supplemental from the President of the United States to fund those things we have all agreed it takes to secure our border.

For the sake of clarity, I will go through those for a second: 6,000 more Border Patrol agents, which, by the way, can be accomplished and trained in 24 months; barriers along the border in those geological and geographic areas that demand barriers, as in southern California years ago. We know how much that cost. That can be accomplished in 24 months. We need the ''eyes in the sky'' referenced in H. Res. 6061, the seamless ''eyes in the sky'' so our manpower can be multiplied tremendously because we have unmanned aerial vehicles patrolling our border, all 2,000 miles of it, night and day. We need to fund the judicial and prosecuting authority along our border to the southwest to see to it that when we make a case, we prosecute. Lastly, we need to build the detention facilities that end the practice of catch and release.

The beauty of going ahead and making the commitment to do it is, immediately upon doing so, those who are here illegally will comply with whatever program we come up with because they will know they can no longer go home. When the border is secure, it works both ways. We can do that. I have not met an American citizen yet in this debate which has been raging for the better part of the last 5 months in the Congress of the United States who wouldn't consider granting legal status to someone who is here illegally if they have cleared the terrorist watch list, if they have demonstrated they have a job, but they don't want to do it until they are sure our border is secure.

History is a great teacher. Twenty years ago, Alan Simpson, from Wyoming, was the author of the American immigration reform bill. The American people were clamoring to do something about the 3 million undocumented and illegal workers who were in America in 1986. People along our borders were clamoring for border security. We passed the Simpson bill. It promised border security. It granted amnesty to those 3 million.

The reality was, we delivered on the amnesty. We looked the other way on border security. And today, we have a 12 million-illegal-aliens problem. If we do a wink and a nod to border security now and reform immigration to attract more, all we will do 20 years from now is have an untenable number of 20, 25, or 30 million.

So H.R. 6061 sends a great message. I might add, the reason it got 96 votes with no dissenting votes on a motion to proceed today, most Members of the Senate have gone home. Most have talked the last 5 months to their constituents. Most know the American people want the border secure. It is a good political vote to authorize those barriers, those fences, and this appropriations. However, it is ultimately our responsibility to see to it that we authorize and appropriate border security and do it in tandem with a reformed immigration program.

By the way, I am always amused by how everyone said we have to get this new reform program in place and don't make the barrier be a trigger for it. That won't work. The truth is, it takes just as long to get the reform program workable as it does to perform those items I just delineated to secure the border. In fact, the verifiable, nonforgeable, biometric ID that we need, we know we can do it in 18 months and have implemented in 24 months. That happens to be exactly the same period of time it takes to get the job done on the border.

It is time we start parsing on the edges. It is time we stop making this a

chicken-or-egg proposition. It is not a chicken-or-egg proposition. Reform of immigration can only take place after we have secured the border. The work it takes to secure the border is exactly the time period it takes to prepare for the new situation of legal immigration.

We are close to a great opportunity to respond to the American people and do what is right. I commend my colleagues who come to the Senate and support 6061. It will send a great signal. But it is only a promise. We need to deliver a reality.

I ask unanimous consent that this letter to me from Richard A. Smith be printed in the RECORD.

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

SEPTEMBER 5, 2006.

Hon. JOHNNY ISAKSON,
*U.S. Senator*.

DEAR SENATOR ISAKSON: I write to inform you of the grave concern I have with respect to both Houses failure to pass immigration reform legislation. I cannot imagine what more you and your colleagues require to motivate Congress to take action on this pressing matter of national security. More than a full year has passed and still not a shred of evidence that the House or Senate fully appreciate the concern this country has over illegal immigration. The impression is that government has completely failed its citizens on this pressing issue.

My vote and support, will go to the party that can address this critically important national security issue. The United States of America is being invaded by a foreign country without firing a single shot and our country's elected officials are apparently incapable of coming to agreement on a solution. I could not be more disgusted with Congress over this issue. You and your colleagues are urged to act on this pressing issue.

Very truly yours,

RICHARD A. SMITH,
*Bernardsville, NJ*.

Mr. ISAKSON. I will not read all of it, but this is an American citizen who wrote this letter today which I think illustrates the critical need for securing our border and ensuring it is done before we open the gates.

More than a full year has passed and still not a shred of evidence that the House or the Senate fully appreciate the concern this country has over illegal immigration. The impression is that government has completely failed its citizens on this pressing issue.

The United States of America is being invaded by a foreign country without firing a single shot and our country's elected officials are apparently incapable of coming to an agreement or a solution. I could not be more disgusted with the Congress over this issue. You and your colleagues are urged to act on this pressing issue.

I don't know how many letters have been written that contain thoughts almost identical to those of Richard Smith, but there have been lots of them. They are by far the preponderance of the communications to this Congress and this Senate.

Let's get H.R. 6061 up for a vote. Let's pass it. Let's make another promise toward border security. But let's come back in a timely fashion. Let's secure our borders and make the commitment and the investment that will take place. Let's reform our immigration process so the way to come to America in the future is the right way, not the easy way because we looked the other way.

Anders Bengsten was the father of my grandfather, whose name was also Anders Bengsten. He was a potato farmer in Sweden. When the famine hit in 1903, he emigrated to the United States of America. In Scandinavia, you don't keep the last name you had there; you take your father's first name, Isak, and add to it ''son.'' That is why most Scandinavians are Isakson, Ericson, Johnson, and Olson. He came to America and became Anders Isakson. He fled because of the potato famine. He landed on Ellis Island. He came legally. I have gone to Sweden and gotten the embarkation and legal papers. I have them at home.

My father was born in 1916, while Anders was still here legally but as an immigrant. My father is an American citizen today because of birthright citizenship. I am a citizen today because Anders Isakson bore that son in 1916. The proudest thing I have on my wall in my den at home is the May 3, 1926, documents that made Anders Isakson a U.S. citizen when he completed his process, 23 years after coming here legally as an immigrant, to become a citizen of the United States of America. There is not a person in this room who respects immigration and the right to come to America and the promise of Ellis Island more than I do. I am a living testimony to its promise.

It is time we return to a pathway to citizenship that is legal. It is time we stop looking the other way and letting people come to America the easy way and the soft way, and say to those who are learning our language, studying our history, those who are pledging allegiance to our country and disavowing their previous allegiance, those who are coming the right way ought to be the stars in the crown of American immigration. It is time we secure our border. It is time we reformed our immigration so the numbers coming reflect the demands of our economy. It is time we stop making promises. It is time we start delivering. America is too important. This issue is too critical to the American people.

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

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

## COMAIR FLIGHT 5191

Mr. MCCONNELL. Mr. President, the people of Kentucky are still reeling from a terrible tragedy that struck less than a month ago. On August 27, ComAir flight 5191 crashed shortly after takeoff at Blue Grass Airport in Lexington. Forty-nine people perished.

Grief has descended on scores of families and into countless lives because of this devastating event. I know I am joined by all Kentuckians in extending sympathies and prayers to the families and loved ones of the victims.

As we continue to grieve, people throughout the Commonwealth are looking for answers. The National Transportation Safety Board has begun an investigation into the cause of this crash and what recommendations can be made to improve future aviation safety. I think we have an obligation to make sure their investigation proceeds smoothly and thoroughly and concludes in a timely manner so that all the questions can be answered as completely as possible. I have been personally briefed by the NTSB on the status of the investigation and intend to follow it very closely.

I spoke to the President about the crash, and he offered the entire State his prayers and is devoting the resources of the Federal Government toward the investigation.

I also expressed concerns to the Transportation Secretary nominee, Mary Peters. She is aware of our concerns and the need for a thorough investigation conducted in a timely manner. Today, she will have the opportunity to update the committee as well. We also need to hear what changes need to be made to our aviation system to prevent catastrophes in the future.

Mr. President, it is impossible to overstate the sorrow that has draped over so many lives in the Commonwealth of Kentucky. Most of the passengers on flight 5191 were from my State. In a variety of different places across the State, it is rare not to know someone who knew one of the victims.

As Kentucky continues to heal, we will take a deep breath, refrain from jumping to conclusions, and finish a thorough and complete investigation.

Kentuckians have drawn together during this crisis to lend each other strength. I am proud of the outpouring of aid and voluntarism that the residents of the Bluegrass State have shown their neighbors. Grief will be there for a long time to come, but sympathy and support will be there too.

## MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to 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.

## SOLIDARITY WITH ISRAEL

Mrs. CLINTON. Mr. President, today, supporters of Israel are gathering in New York to show solidarity with our friend and ally, the State of Israel, and I am proud to join my voice with theirs

in support of Israel. As world leaders gather in New York City for the General Assembly, the world must know that Americans and all people who value freedom and the rights and dignity of human beings around the world stand with Israel as it defends itself against unwarranted, unprovoked attacks from terrorists and their state sponsors.

It is essential for those of us who care deeply about what is happening in Israel now to recognize that Israel's struggle is a struggle on behalf of a future where people will be able to live in peace and security. The kidnapping of Israeli soldiers that precipitated the conflicts in Lebanon and Gaza have not yet been resolved, and it is essential that Israel's abducted soldiers are returned to Israel unconditionally. I have met with family members of one of the soldiers abducted in Israel near the Lebanese border who spoke eloquently and movingly about the importance of securing the safe return of the captured soldiers. Today I sent a letter to Jacob Kellenberger, president of the International Committee of the Red Cross, asking that he do whatever possible to determine the health and well-being of the three soldiers, to ensure that they have their full rights under the Geneva Conventions, and to do what he can to secure their release.

Israel's right to exist, and exist in safety, must never be put in question, and we must continue to stand up to offensive rhetoric and terrorist violence that threatens Israel's existence. Iranian President Mahmoud Ahmadinejad, a repeated purveyor of offensive rhetoric, is currently visiting New York for the United Nations General Assembly. It is my hope that world leaders will convey the message that through his statements calling for Israel's destruction and support for the terrorists who rain rockets on Israeli civilians and abduct its soldiers, President Ahmadinejad continues to lessen his standing as a credible world leader in the community of nations.

## ARMENIAN INDEPENDENCE

Mrs. BOXER. Mr. President, I take this opportunity to recognize and celebrate the important milestone of the 15th anniversary of Armenian independence.

Armenia has a rich history which spans more than 3000 years. Considered one of the cradles of civilization, Armenia was the first country in the world to officially adopt Christianity as its religion. The Armenian alphabet and language have helped ensure the continuation of a vibrant Armenian culture, despite great odds and numerous attempts to destroy the Armenian nation and the Armenian people.

I was honored to witness the resiliency, courage, and spirit of the Armenian people when I visited Armenia as a Member of Congress in 1991, in the aftermath of the devastating earthquake. During that trip, my commitment to recognizing the Armenian genocide was further strengthened.

In 1915, the Ottoman Turks attempted to annihilate the Armenian people in a brutal genocide. To this day, the Turkish Government refuses to acknowledge the atrocities for what they were—a systematic genocide. Not only were the Armenian people able to survive the genocide, but they kept their small nation alive. It was a great victory when the first Republic of Armenia was formed in 1918 following the Armenian genocide. But again, Armenia faced dissolution when it was taken over by the Soviet Union in 1920; the short-lived independence of Armenia ended when it became a Soviet Republic in the USSR.

Again, the Armenian people persevered despite their loss of independence and despite more devastation. In 1988, disaster hit when an earthquake rocked Armenia, killing approximately 50,000 people and leaving more than half a million people homeless.

Then, on September 23, 1991, Armenia declared its independence from the Soviet Union and formed the second Republic of Armenia. This was a rebirth of the independent state of Armenia and an historic moment for an oppressed country. It was a cause for celebration for Armenians around the world.

I am proud that the United States helped the newly independent Armenian nation during its transition to democracy. In December, 1991, the United States formally recognized the independence of Armenia, and the two countries established diplomatic relations with embassies in each country in January 1992.

But more remains to be done. This 15th anniversary offers an opportunity to celebrate the United States' relationship with Armenia and to renew our commitment to this country and our calls for Armenian genocide recognition.

Following September 11, 2001, Armenia was one of the first countries to respond with assistance to the United States. Armenia provided embassy protection and clearance for U.S. flight, shared intelligence, and froze bank accounts. The U.S. friendship with Armenia remains critical in our fight against terrorism. The United States must never forget Armenia's help and must do all it can to help this independent, democratic nation prosper.

On this milestone 15th anniversary, I am honored to recognize Armenian independence. I pledge to do all I can to assist Armenia and my Armenian-American constituents in California.

## WELCOMING KAZAKSTAN PRESIDENT NURSULTAN NAZARBAYEV

Ms. LANDRIEU. Mr. President, next week the United States will welcome President Nursultan Nazarbayev, the leader of the Republic of Kazakhstan. Fifteen years ago 15 independent states were formed after the collapse of the Soviet Union. The international community has followed the aftermath of these events in that part of the world with great interest.

Kazakhstan has demonstrated important economic gains during this period. The reforms which have been carried out thus far have allowed it to become one of the world's rapidly developing economies with an annual growth of 9–10 percent. Additionally, it has become the place for common ground among its various ethnic and spiritual groups.

As ethnic and religious conflicts divide regions around the world, Kazakhstan is working to preserve broad interfaith tolerance by creating the Congress of World and Traditional Religions. This program unites a predominantly Muslim country with more than 40 other faiths and fosters a dialog which assists in overcoming religious differences.

One cannot overlook Kazakhstan's contribution to nonproliferation and promotion of global security. Kazakhstan had the world's fourth largest nuclear arsenal, and renounced this lethal heritage without any pressure or coercion.

Independent Kazakhstan is a young nation, yet it has shown tremendous progress and occupies a worthy place in the international community. President Nursultan Nazarbayev has made significant contributions to the establishment of strong and friendly relations with the United States.

After the tragic events on September 11, 2001, Kazakhstan extended its generosity to the people of the United States and after Hurricane Katrina it offered its generous support to the people of Louisiana.

Today our countries enjoy a solid foundation for the continued flourishing of a partnership along the entire spectrum of bilateral relations. Kazakhstan is a dependable partner of the United States in the global war on terrorism. I am confident the upcoming visit of President Nazarbayev to the United States will deepen and strengthen the strategic partnership between our two countries.

## NORTHERN MARIANA ISLANDS

Mr. BINGAMAN. Mr. President, the Commonwealth of the Northern Mariana Islands, CNMI, became a part of the United States 30 years ago with high expectations, but today they are an American community in deep distress. The CNMI economy is being bled by a rapid decline in its garment industry as the result of new international trade rules, by losses in its tourism industry, and by the loss of over $100 million each year in wages that are sent offshore by foreign guest workers. The community on Saipan, where 90 percent of the population resides is experiencing increasing problems with water quality and service, the electric system has returned to scheduled outages after years of reliable service, and overburdened wastewater systems cause regular contamination of the land, air,

and water. The Government has recently made layoffs in an effort to balance the budget and has even cut back the number of workdays for those who continue to have jobs. Unemployment is conservatively estimated at 14 percent and rising, and a shocking 65 percent of children receive food assistance. Only 6 months ago, the Government asked Congress for an unprecedented $140 million in new appropriations to maintain government operations and meet critical needs.

There are many reasons for this dire situation; some are temporary, others are systemic. One of the systemic causes of this situation which should be addressed promptly by Congress and the administration is the local government's labor and immigration policies, particularly their promotion of an extremely high population growth rate, 500 percent in 30 years, and their promotion of the use of alien guest workers instead of U.S. citizens for nearly all private sector occupations. In order to establish a stable and sustainable foundation for the CNMI's future, a new Federal immigration and labor policy framework and Federal institutions are needed to properly control the borders and to properly manage the guest worker program.

When the CNMI became a U.S. territory in 1976, most U.S. laws were immediately extended. However, the granting of U.S. citizenship to the inhabitants and the extension of U.S. immigration law were not to occur until ''after termination of the Trusteeship Agreement''; that is, not until after the international community, acting through the United Nations, recognized the extension of U.S. sovereignty over the islands by terminating the U.N. Trusteeship Agreement.

Unfortunately, during the 10-year period between U.S. approval of the covenant in 1976 and U.N. termination of the trusteeship in 1986, the CNMI began the importation of foreign workers to exploit a combination of immigration, wage, and trade privileges. In 1986, the Reagan administration wrote to the CNMI Governor stating that ''the tremendous growth in alien labor [is] . . . extremely disturbing'' and urged ''timely and effective action to reverse the . . . situation.'' The administration warned that ''the uncontrolled influx of alien workers . . . can only result in increased social and cultural problems.'' The CNMI policy was also inconsistent with the legislative history of the covenant which states that local immigration control was intended to restrict immigration in order to protect the indigenous community from being overwhelmed by immigrants.

Notwithstanding these concerns expressed by the Reagan administration, and later the Bush and Clinton administrations, the CNMI continued to import alien guest workers and other, nonworker, aliens. The population of 16,000 in 1976 has exploded to an estimated 80,000 today.

Mr. President, in 1999, the Northern Mariana Islands Covenant Act Implementation Act was reported favorably by the Committee on Energy and Natural Resources, and it passed the U.S. Senate by unanimous consent in 2000. It would have extended the Immigration and Nationality Act, INA, to the CNMI as anticipated under the covenant agreement which joined the United States and CNMI in political union in 1976. The measure was reintroduced in the 107th Congress and was again reported favorably by the Energy Committee. I was pleased that the measure continued to have bipartisan support at that time, including the ''strong support'' of the administration.

On June 21,2006, I joined with my colleague and the chairman of the Energy Committee, PETE DOMENICI, in a letter to the Secretary of the Interior, copied to the Attorney General and the Secretary of Homeland Security, asking whether there have been developments that would cause the administration to alter its support for this bill. We have not yet received a reply.

Mr. President, I ask unanimous consent that a copy of the recent letter to Secretary Kempthorne, a copy of the original, 2001 letter of support from the administration, and a copy of a section-by-section summary of the legislation all be printed in the RECORD at the end of my remarks.

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

(See exhibit 2.)

Mr. BINGAMAN. Mr. President, I believe the reasons the Administration and Congress should continue to support legislative action are compelling, and I present them here for the consideration of my colleagues and the public. In short, there are five reasons that legislation is needed to more fully implement the covenant agreement that ties the CNMI and the United States in political union: the lack of local institutional capacity, national security, ineffective law enforcement against organized crime, an unsustainable economic model, and inadequate protection for alien workers. I believe that any one of these reasons is a basis for the administration to reaffirm its support. All five reasons make the case for continued support overwhelming.

First, congressional action is needed because the CNMIs lack the institutional capacity to control its borders or to properly manage immigration and guest worker programs. In 1997, reports by both the U.S. Immigration and Naturalization Service, INS, and by the bipartisan U.S. Commission on Immigration Reform found that the CNMI does not have, and never will have, the capacity to properly control its borders because border control requires sovereign authority to operate overseas consulates, issue visas, and have access to classified national and international ''watch'' lists. During the Energy Committee's hearings on this legislation in September of 1999, the General Counsel of the INS, Mr. Bo Cooper, was asked, ''Do you foresee any circumstances under which the government of the Commonwealth could operate an immigration system that is satisfactory to the Federal Government?'' Mr. Cooper responded, ''No, I do not.'' This fundamental fact has not changed with time, and it alone constitutes a basis for enacting legislation to extend Federal immigration control to the CNMI.

Second, Federal legislative action is needed because the post-9/11 environment requires that the United States secure its borders. The CNMI is an American community that deserves that same level of protection from attack as other American communities. The United States also has important military assets and training facilities in the CNMI, and our Nation's Naval and Air Force bases in nearby Guam are increasingly important both regionally and globally. The threat from North Korea, tension between Taiwan and China, and terrorist activity in the nations of Southeast Asia, all underscore the strategic importance of the Marianas. Yet the lack of institutional capacity to secure the borders underscores the vulnerability of the Marianas, and the Nation. Border control is an inherently sovereign function, and given the increasing importance of the Marianas, the increased threats they face, and the obligation of the President to protect all U.S. communities, this function can no longer be delegated to local authorities.

A third reason for congressional action is the CNMI's lack of capacity to screen for criminals entering the islands. This deficiency has contributed to the establishment of organized crime elements from Japan, China, and Russia in the community and to an increase in illegal drug, gambling, prostitution, and trafficking crimes associated with such elements. The 1997 INS report found that: ''[There are] serious deficiencies in all facets of the Marianas' current system of immigration enforcement and control'' and ''There appears to be universal recognition amongst the Mariana Government Authorities that various organized crime groups, such as the Japanese Yakuza, the Chinese Triads, and the Russian Mafia have made inroads into the Marianas . . . Few of these persons are ever detected at the port-of-entry or apprehended while in the Marianas.'' The report recommended that Congress enact legislation to extend the Immigration and Nationality Act.

A fourth reason for congressional action is to change CNMI immigration and labor policies that are unsustainable and contribute to the distress the community now faces. The CNMI, promotes the use of guest workers to fill virtually all private sector jobs: unskilled, skilled, and even professional jobs. In addition, both the CNMI Government and the private sector earn income from the hiring of alien workers but not from hiring U.S. citizens. Consequently, those U.S. citizens who cannot find increasingly

scarce Government work are left to go on welfare or emigrate. Unemployment is conservatively estimated at 14 percent and rising. An astounding 65 percent of children are on food assistance. Also contributing to this unsustainable economic model is the problem of wage remittances. For 2005, it was reported that guest worker remittances to their home countries was well in excess of $100 million. These remittances are bleeding the community of wealth that is no longer available to buy goods and services, create jobs, and otherwise stimulate economic activity for the benefit of the community.

The CNMI's labor and immigration policies also contribute to an unsustainable economy because they result in huge population growth rates which have overwhelmed the community's infrastructure and services. Most of these new residents are very low-wage or no-wage migrants who are a net drain on the economy, consuming more in public services than they contribute in taxes. As a result, water and power are rationed; sewage fouls the land, air, and water; and healthcare and education facilities are seriously overcrowded. Each year the economy struggles to support growing numbers of unemployed U.S. citizens, as well as thousands of nonworking alien and illegal alien residents.

Finally, local labor and immigration policies contribute to an unsustainable economy because the resulting high crime and deteriorating infrastructure create disincentives to investment. Gone are the clean and open beaches and the reliable utilities and services that attracted new hotel and tourist investment 20 years ago. Instead, the CNMI has asked the Congress for a $140 million bailout to sustain an economic model that is fundamentally flawed.

The fifth reason Federal legislative action is needed is to protect guest workers from abuse. Abuse of workers was the driving force behind congressional establishment of the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement in 1994. Following establishment of this program, Interior Department investigations confirmed the allegations of outrageous abuses, from widespread and systematic cheating of workers out of ages, to improper confinement, to coerced abortions. The worst of these abuses have apparently ended, in part through the efforts of the U.S. Department of the Interior's labor ombudsman. This office was established under the initiative in 1999 as a stop-gap measure because the Energy Committee's efforts to enact reform legislation had run into insurmountable opposition in the U.S. House of Representatives. The Interior labor ombudsman's responsibility was, and remains, to advocate on behalf alien workers; to give them a voice in the face of the inadequately funded and often indifferent local bureaucracy.

Unfortunately, the 2006 ombudsman's report states that while there have been improvements in the treatment of guest workers, ''There are still a number of serious problems that have yet to be effectively addressed by local government officials: ensuring the health and safety of alien workers; inadequate prevention efforts to curb labor abuses through periodic regulatory inspections; unacceptable delay in investigating and adjudicating worker complaints due to failure to allocate sufficient resources to the Department of Labor; difficulty rooting out corruption within the agencies tasked with regulating alien entry and work permitting, and an inability or unwillingness to prosecute repeat offenders.''

Mr. President, if, after 12 years of effort, the chief Federal labor official in the CNMI still finds such systemic problems in the local government's capabilities and commitment to stop the abuse of guest workers, then it is clearly time for Congress to enact reform legislation. Stop-gap measures have only resulted in stop-gap solutions. If foreign-national guest workers continue to be mistreated under the U.S. flag, then it is the duty of the Congress to extend the Federal laws and institutions necessary for their protection.

I am disappointed with the lack of priority which the Department of the Interior has given the CNMI Initiative during recent years. Since 2000 the Department has failed to submit an annual report on the initiative. This year the report was finally submitted but only after the Department was twice directed to do so in congressional appropriations report language. As for content, the report is completely inadequate. It was composed only of a statement by the Interior labor ombudsman and it failed to include the input of Federal law enforcement officials or any of the socioeconomic data needed to properly assess socioeconomic and law enforcement trends in the islands. Without regular tracking of census and economic data, such as population, household income, and government revenues and expenditures, Congress must rely upon press reports to assess conditions in the islands. Nevertheless, the information contained in the Department's narrowly scoped report still leads to the conclusion that conditions have not fundamentally changed with respect to the protection of guest workers, and Federal legislative action is still needed.

Any one of these five reasons—lack of institutional capacity, border control, law enforcement, unsustainable economics, and inadequate worker protection—is sufficient cause for Federal action. All five reasons make an overwhelming case. Certain fundamental facts that existed in 2001 when the administration first announced its support for legislation remain unchanged. For example, the CNMI still lacks the capacity to properly operate immigration and guest worker programs. Other facts are new and provide further justification for the administration to reaffirm its support. For example, after 9/11 the United States is at greater risk of attack and must secure its borders and protect the U.S. citizens of the Marianas as we protect all communities on American soil

Border security and immigration control are inherent functions of national sovereignty that were intended to be extended to the CNMI following international recognition of the extension of U.S. sovereignty over the islands. That recognition occurred in 1986. As predicted by the Reagan administration 20 years ago, the failure of Congress to extend these laws has resulted in unacceptable social and cultural problems. Four U.S. administrations have expressed serious concern with these conditions, and two administrations have endorsed legislation to extend the INA with appropriate protections for the local economy. There have been no developments since 2001 that provide a basis for the administration to alter its strong support for this approach. In fact, the case for extending Federal policies and institutions to the CNMI to protect the community and to stabilize its economy is more compelling than ever.

I look forward to receipt of the administration's reply to the committee's June 21 2006 letter, and to working with them, Chairman DOMENICI, and representatives of the CNMI on legislation to extend Federal immigration policies and institutions to the CNMI as anticipated by the covenant and as needed to protect the community and restore its economy to a sustainable future.

EXHIBIT 1

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
*Washington, DC, June 21, 2006.*

Hon. DIRK KEMPTHORNE,
*Secretary, U.S. Department of the Interior, Washington, DC.*

DEAR SECRETARY KEMPTHORNE: The U.S. Senate is currently engaged in a debate regarding our Nation's immigration policies, including discussion of border security, labor demand, and the status of persons currently in the country without legal status. As members of the Committee on Energy and Natural Resources which has jurisdiction with respect to the Territories of the United States, we have, over the course of several years, considered these issues with respect to the Commonwealth of the Northern Mariana Islands (CNMI).

On June 5, 2001, the Committee reported legislation, the Northern Mariana Islands Covenant Implementation Act (S. 507, S. Rpt. 107–28) that would have extended Federal immigration law to the CNMI with certain transition, exemption, and assistance provisions. This legislation was reported with a statement of support by the Administration as set forth in the letter of May 15, 2001 from Assistant Attorney General Daniel J. Bryant to then-Chairman Frank H. Murkowski.

Given the passage of time, we are writing to ask whether there have been any developments in the CNMI that would cause the Administration to readdress their statement from 2001. We ask that you please provide a response within 30 days, as Chairman of the Interagency Group on Insular Affairs, and direct any questions that you may have to

Josh Johnson or Allen Stayman of the Committee staff at 202–224–4971. Thank you in advance for your assistance.

Sincerely,

PETE V. DOMENICI,
*Chairman.*
JEFF BINGAMAN,
*Ranking Member.*

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U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
*Washington, DC, May 15, 2001.*

Hon. FRANK H. MURKOWSKI,
*Chairman, Committee on Energy and Natural Resources, Washington, DC.*

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice on S. 507, the ''Northern Mariana Islands Covenant Act.'' We strongly support S. 507.

S. 507 would extend the Immigration and Nationality Act to the Commonwealth of the Northern Mariana Islands (''CNMI''). It contains special provisions to allow for the orderly application of national immigration law, taking into account the local economy in this newest United States territory. S. 507 is identical to S. 1052 from the 106th Congress.

We believe that S. 507 would improve immigration policy by guarding against the exploitation and abuse of individuals, by helping to ensure that the United States adheres to its international treaty obligation to protect refugees, and by further hindering the entry into United States territory of aliens engaged in international organized crime, terrorism, or other such activities. Consequently, we support S. 507 and urge its passage.

This bill has resource implications for the Executive branch. If it passes, we look forward to working with the appropriate committees to ensure that the necessary resources are dedicated to achieve the purpose of the bill.

Thank you for the opportunity to present our views. Please do not hesitate to call upon us if we may be of further assistance. The Office of Management and Budget has advised us that, from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,

DANIEL J. BRYANT,
*Assistant Attorney General.*

Identical letter sent to the Honorable Jeff Bingaman, Ranking Minority Member.

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NORTHERN MARIANA ISLANDS COVENANT IMPLEMENTATION ACT, 107TH CONGRESS.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title and purpose. The statement of purpose is intended to guide and direct Federal agencies in implementing the provisions of this Act, and states, in part:

''. . . it is the intention of Congress in enacting this legislation: (1) to ensure effective immigration control by extending the Immigration and Nationality Act with special provisions to allow for the orderly phasing-out of the non-resident contract worker program of the Commonwealth of the Northern Mariana Islands, and the orderly phasing-in of Federal responsibilities over immigration in the Commonwealth of the Northern Mariana Islands; and to minimize, to the greatest extent possible, potential adverse effects this orderly phase-out might have on the economy of the Commonwealth of the Northern Mariana Islands. . . .''

Section 2. Immigration reform for the Commonwealth of the Northern Mariana Islands. Subsection (a) amends Public Law 94–241 which approved the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America by adding a new section 6 at the end.

The new Covenant Section 6: provides for the orderly extension of Federal immigration laws to the CNMI under a transition program designed to minimize adverse effects on the economy. Specific provisions are made to ensure access to workers in legitimate businesses after the end of the transition and for the adjustment of those foreign workers who are presently in the CNMI and who have been continuously employed in a legitimate business for the past five years.

Subsection (a): provides, except for any extensions that may be provided by the Attorney General to specific industries in accordance with the provisions of subsection (d), for a transition program ending after eight years to provide for the issuance of: nonimmigrant temporary alien worker; family-sponsored, and employment-based immigrant visas.

Subsection (b): addresses the special problems faced by employers in the CNMI due to the Commonwealth's unique geographic and labor circumstances by providing an exemption from the normal numerical limitations on the admission of H–2B temporary workers found in the INA. This subsection enables CNMI employers to obtain sufficient temporary workers, if United States labor and lawfully admissible freely associated state citizen labor are unavailable, for labor sensitive industries such as the construction industry.

Subsection (c): sets forth several requirements during the transition program which must be met with respect to temporary alien workers who would otherwise not be eligible for nonimmigrant classification under the INA. The intent of this subsection is to provide a smooth transition from the CNMI's current system. The Secretary of Labor will be guided by the Act, including the Statement of Purpose and the explanation in the Committee Amendments section of the Committee Report in establishing the system for the allocating and determining the number of permits. Subsection (j) provides for petitions to adjust the status of certain long-term employees. If any petitions are granted under subsection (j), the number of permits are to be reduced accordingly to the extent that the system adopted by the Secretary of Labor assumed an allocation of permits for the positions held by persons whose status is adjusted under subsection (j).

Subsection (d): provides general limitations on the initial admission of most family-sponsored and employment-based immigrants to the CNMI, as well as a mechanism for exemptions to these general limitations. This subsection is intended to address the concerns expressed by this Committee, in approving the Covenant in 1976, regarding the effect that uncontrolled immigration may have on small island communities. This subsection further provides for a ''fail-safe'' mechanism to permit, in cases of labor shortages, that certain unskilled immigrant worker visas intended for the CNMI be exempted from the normal worldwide and per-country limitations found in the INA for such unskilled workers. This subsection does not increase the overall number of aliens who may immigrate to the United States each year.

Paragraph (1): of this subsection authorizes the Attorney General, after consultation with the governor and the leadership of the Legislature of the CNMI and in consultation with other Federal Government agencies, to exempt certain family-sponsored immigrants who intend to reside in the CNMI from the general limitations on initial admission at a port-of-entry in the CNMI or in Guam. For example, unless the CNMI recommends otherwise, most aliens seeking to immigrate to the CNMI on the basis of a family-relationship with a United States citizen or lawful permanent resident would be required to be admitted as a lawful permanent resident at a port-of-entry other than the CNMI or in Guam, such as Honolulu.

Paragraph (2): generally provides the Attorney General with the authority to admit, under certain exceptional circumstances and after consultation with federal and local officials, a limited number of employment-based immigrants without regard to the normal numerical limitations under the INA. The purpose of this provision is to provide a ''fail-safe'' mechanism during the transition program in the event the CNMI is unable to obtain sufficient workers who are otherwise authorized to work under U.S. law. This paragraph would also provide a mechanism for extending the ''fail-safe'' mechanism beyond the end of the transition program, for a specified period of time, with respect to legitimate businesses in the CNMI.

Subparagraph (A): provides that the Attorney General, after consultation with the Secretary of Labor and the Governor and leadership of the Legislature of the CNMI, may find that exceptional circumstances exist which preclude employers in the CNMI from obtaining sufficient work-authorized labor. If such a finding is made, the Attorney General may establish a specific number of employment-based immigrant visas to be made available under section 203(b) of the INA during the following fiscal year. The labor certification requirements of section 212(a)(5) will not apply to an alien seeking benefits under this subsection.

Subparagraph (B): permits the Secretary of State to allocate up to the number of visas requested by the Attorney General without regard to the normal per-country or 'other worker' employment-based third preference numerical limitations on visa issuance. These visas would be allocated first from unused employment-based third preference visa numbers, and then, if necessary, from unused alien entrepreneur visa numbers.

Subparagraph (C): deals with entry of persons with employment-based immigrant visas. Persons who are otherwise eligible for lawful permanent residence under the transition program may have their status adjusted in the CNMI.

Subparagraph (D): provides that any immigrant visa issued pursuant to this paragraph shall be valid only to apply for initial admission to the CNMI. Any employment-based immigrant visas issued on the basis of a finding of 'exceptional circumstances' as described in subparagraph (A) above, would be valid for admission for lawful permanent residence and employment only in the CNMI during the first five years after initial admission. Such visas would not authorize permanent residence or employment in any other part of the United States during this five-year period. The subparagraph also provides for the issuance of appropriate documentation of such admission, and, consistent with the INA, requires an alien to register and report to the Attorney General during the five-year period. This five-year condition is intended to prevent an alien from using the CNMI-only transition program as a loophole to gain employment in another part of the United States. Without this condition, such an alien, as a lawful permanent resident, would be eligible to work anywhere in the United States, thereby avoiding the lengthy (seven years or longer) waiting period currently faced by other aliens seeking unskilled immigrant worker visas.

Subparagraph (E): provides that an alien who is subject to the five-year limitation under this paragraph may, if he or she is otherwise eligible, apply for an immigrant visa

or admission as a lawful permanent resident on another basis under the INA.

Subparagraph (F): provides for the removal from the United States, of any alien subject to the five-year limitation if the alien violates the provisions of this paragraph, or if the alien is found to be removable or inadmissible under applicable provisions of the INA.

Subparagraph (G): provides the Attorney General with the authority to grant a waiver of the five-year limitation in certain extraordinary situations where the Attorney General finds that the alien would suffer exceptional and extremely unusual hardship were such conditions not waived. The benefits of this provision would be unavailable to a person who has violated the terms and conditions of his or her permanent resident status, such as an alien who has engaged in the unauthorized employment.

Subparagraph (H): provides for the expiration of limitations after five years.

Subparagraph (I): provides for not more than two five-year extensions, as necessary, of the employment-based immigrant visa programs of this paragraph, with respect to workers in legitimate businesses in the tourism industry. This provision is designed to ensure that there be a sufficient number of workers available to fill positions in the tourism industry after the transition period ends. The subparagraph also permits a single five-year extension for legitimate businesses in other industries. The provisions are explained more fully under the discussion of Committee Amendments.

Subsection (e): provides further detail regarding nonimmigrant investor visas.

Subsection (f): provides further detail regarding persons lawfully admitted into the CNMI under local law.

Subsection (g): provides travel restrictions for certain applicants for asylum.

Subsection (h): deals with the effect of these provisions on other law.

Subsection (i): provides that no time spent by an alien in the CNMI in violation of CNMI law would count toward admission and is self-explanatory.

Subsection (j): provides a one-time grandfather for certain long-term employees and is more fully discussed in the section of the Report describing the Committee Amendment.

Section 2, subsection (b): provides for three conforming amendments to the INA.

Section 2, subsection (c): provides for technical assistance to specifically charge the Secretary of Commerce to provide technical assistance to encourage growth and diversification of the local economy and the Secretary of Labor to provide assistance to recruit, train, and hire persons authorized to work in the U.S.

Section 2, subsection (d): provides administrative authority for the Departments of Justice and Labor to implement the statute.

Section 2, subsection (e): provides for a report to Congress.

Section 2, subsection (f): limits the number of alien workers present in the CNMI prior to the transition program effective date.

Section 2, subsection (g): authorizes appropriations.

## CONDEMNING DRIVE HUNTS

Mr. LAUTENBERG. Mr. President, I rise today to discuss the inhumane and unnecessary annual slaughter of small cetaceans, including Dall's porpoise, the bottlenose dolphin, Risso's dolphin, false killer whales, pilot whales, the striped dolphin, and the spotted dolphin, by Japan's drive fishery.

Drive hunts are run by fishers who use scare tactics to herd, chase, and corral the animals into shallow waters where they are trapped and then killed or hauled off live to be sold into captivity. The overexploitation of these highly social and intelligent animals for decades has resulted in the serious decline, and in some cases, the commercial extinction, of these species.

On April 7, 2005, I introduced Senate Resolution 99 to help end this inhumane and unnecessary practice and urged participating countries to stop the brutal treatment of these animals. Fishers have killed small cetaceans along the coastlines of Japan for centuries with no regard for the humaneness or sustainability of the hunt. Currently, up to 20,000 small cetaceans of several species are killed in Japanese drive and harpoon hunts each year. In the last two decades, more than 400,000 have been slaughtered in Japan alone.

The cruelty endured by dolphins and whales caught in drive hunts is immense. Aboard motorized boats, drive hunt fishers loudly bang metal pipes over the side of their boats to disorient the animals and drive them toward shore where they are trapped by nets and stabbed with long knives, usually just behind the blowhole or across the throat. Many of the animals eventually die from blood loss and hemorrhagic shock or their spinal cord is severed.

Today, the Humane Society of the United States/Humane Society International, Animal Welfare Institute, and Whale and Dolphin Conservation Society are joining with concerned citizens throughout this country and around the world to gather in peaceful demonstrations to express their concern for the welfare of these animals. I, too, join them in condemning these brutal and senseless hunts.

## TRIBUTE TO JUDGE JAMES DEANDA

Mr. LEAHY. Mr. President, this afternoon I would like to take a moment to mark the passing of a great American—Judge James DeAnda. Judge DeAnda died of cancer on September 7, 2006, at the age of 81. He was appointed to the Federal bench by President Jimmy Carter in 1979 and served as judge on the U.S. District Court for the Southern District of Texas until his retirement in 1992. Before his distinguished tenure as a Federal trial judge, James DeAnda was a tireless civil rights advocate with what has become known as a ''voracious appetite for justice.''

Born in Houston, TX, James DeAnda was the son of Mexican immigrants. He attended Texas A&M University and served in the U.S. Marines during World War II before graduating from the University of Texas Law School in 1950, when there were only a handful of Hispanic law students. James DeAnda returned to Houston after graduation, but he had difficulty finding work because White law firms refused to hire a Hispanic lawyer. Not one to be discouraged, James DeAnda joined another Hispanic lawyer to form a legal practice dedicated to representing Hispanic Americans.

In one of his earliest cases, James DeAnda was a member of the four-person legal team behind Hernandez v. Texas, 1954, the first case tried by Mexican American attorneys before the U.S. Supreme Court. In Hernandez, the Supreme Court overturned the murder conviction of a Hispanic man by an all-White jury and for the first time gave Hispanics status as a distinct legal classification deserving of special protection under the Constitution. This case represented a watershed moment in our civil rights history because it opened the door to voting rights, education, and employment challenges by Hispanic Americans. James DeAnda himself used this newly attained classification to fight the segregation of Hispanic children within public schools. He was involved in a number of cases including Cisneros v. Corpus Christi Independent School District, 1970, in which the Supreme Court extended for the first time Brown v. the Board of Education to Hispanics.

In 1968, James DeAnda helped found the Mexican American Legal Defense and Educational Fund, MALDEF. As one of our Nation's leading Latino advocacy organizations, MALDEF played a crucial role in Judiciary Committee hearings on reauthorization of the Voting Rights Act this year. Several MALDEF leaders testified before the Senate and House committees about the continued importance of the Voting Rights Act in ensuring equal access and fair representation for minority voters. MALDEF conducted extensive studies showing the unavailability of translated voting materials and language assistance to Spanish-speaking voters, despite the legal requirement that they be provided and clearly demonstrated the need for reauthorization of the Voting Rights Act.

Judge James DeAnda inspired generations of civil rights advocates. The continuing work of the organization he helped to found, MALDEF, serves as an enduring legacy to this great American. Our thoughts and prayers go out to his family.

## GOLD STAR MOTHERS

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

I hope that we will all take time this Sunday, September 24, to honor these mothers and fathers who have so bravely endured the loss of a son or daughter killed while serving in the Armed Forces. Colorado has lost many young

men and women to combat since the horrendous attacks of 9/11. One day is not long enough for us to ever fully honor those parents who have had to suffer the unimaginable pain of losing a child, but we will try.

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

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

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

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

While they continually experience many dangerous challenges, our men and women of our Armed Forces continue making strides in Iraq and Afghanistan. We have fought a terrible enemy that has no regard for human life.

Yet despite our challenges, we have seen tremendous progress, especially towards helping to create partners in our fight against terrorism worldwide. Indeed, much of our success depends on the men and women in the new democratic governments formed in Iraq and Afghanistan, and they are stepping up to the challenge. In Iraq, people from all walks of life—Sunnis, Shia, and Kurds—have participated in multiple elections and referendums across the country for the first time in Iraq's history.

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

Many remarkable achievements have been made through the sacrifices of the men and women in the military, but perhaps the most important of all is what has not occurred in our own country. Since we took military action against these Islamic extremists and brought the fight to them, we have not seen an attack on American soil. The sacrifices that the sons and daughters of our Gold Star Mothers have made and continue to make are protecting us here on our shores.

Unfortunately, we have seen that even after the death of terrorist leaders like Abu Musab al-Zarqawi that the forces of the Islamic extremists vow that they will continue to wage war on American civilians. Our success against this type of enemy is only ensured by the brave men and women of our Armed Forces. They provide the safety and security to our nation, and we are truly grateful for what they have done. While the cost has been high, the cost of doing nothing would be even greater. These words provide little comfort to the families that have lost loved ones. But we will always remember those who have lost their lives in support of our freedom, and thank them for their sacrifice. I ask unanimous consent for the list of fallen heroes from Colorado be printed in the RECORD.

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

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

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

## NATIONAL SCHOOL BACKPACK AWARENESS DAY

Mr. MENENDEZ. Mr. President, I rise in recognition of the fifth annual National School Backpack Awareness Day, September 20, 2006. Today, the American Occupational Therapy Association, AOTA, in collaboration with more than 350 occupational therapy practitioners across the country will be educating thousands of children and their families about how to stay healthy and succeed in school, especially how to prevent backpack related injuries. These organizations are taking real steps towards protecting our children during their most formative years.

Occupational therapists and occupational therapy assistants play an incredibly important role in our local communities. Occupational therapy practitioners work directly with students, parents, and teachers to modify educational environments so that all students can achieve academic success. They often develop plans to improve function and productivity, so as to maximize independence within the academic environment. Their knowledge about how children can stay healthy and succeed in school is invaluable. Today's effort to protect them from backpack injuries is much needed, and I know it will have a positive impact on thousands of families.

Many children enjoy picking out a backpack at the start of the school year, usually based on a certain color or design, but if worn incorrectly or if too heavy, there is a serious potential for injury. In light of this concern, today at schools, stores, hospitals, and shopping malls all over the Nation, children's backpacks will be ''weighed-in.'' This will ensure that children are not carrying more than 15 percent of their bodyweight on their back. According to U.S. and international studies, children using overloaded and improperly worn backpacks experience neck, shoulder and back pain. Furthermore, children wearing backpacks improperly suffer from compromised breathing and increased fatigue at significantly higher rates than students wearing their backpacks properly and with appropriate loads. In our great State of New Jersey, these ''weigh-ins'' are being conducted at nine locations throughout the State. By the end of the day, children all over America will be healthier and equipped with information about how to properly load and carry a backpack.

National School Backpack Awareness Day is a prime example of how occupational therapy works within our schools and communities to promote wellness and improve quality of life. I know today will be a success and ask my colleagues to join me in celebrating September 20, 2006, as National School Backpack Awareness Day.

## ADDITIONAL STATEMENTS

### STILLWATER MINING COMPANY

● Mr. BAUCUS. Mr. President, I once heard my home State of Montana described as a small town with long streets and I can't think of a more apt description. We are all neighbors, and one of our cardinal rules is if your neighbor needs help, lend a hand. Last month, as fires raged across our State, many of our neighbors needed a hand and Montanans from all over Big Sky country pitched into help. Among the first to help out was the Stillwater Mining Company.

As many are aware, the massive Derby Mountain Fire caused serious damage around Big Timber, MT. At one time the Derby Mountain Fire was the top priority fire in the country. When the communities around Big Timber needed help, the folks at the Stillwater Mining Company rolled up their sleeves and figured out how they could help.

The Stillwater Mining Company knew what a massive disaster the Derby Fire had become, and how those fighting the fire needed every pair of hands they could get. To get more boots on the ground, the Stillwater Mining Company provided full pay leave to all of their employees who volunteered to either fight the fire or to assist the fire crews. They paid for every meal that the Red Cross served at the Derby Fire. They sent their human resource staffers to the area to help manage the evacuations. Their computer mapping specialists helped to make highly sophisticated fire maps. They sent their own personal bulldozers to the fire lines. They sent their sprinkler systems to the front lines to saturate areas to protect homes. They also allowed helicopters to dip into their mining ponds. And all of this was done by the Stillwater Mining Company while at the same time they were forced to shut their mines down for 8 days due to the fire.

The Stillwater Mining Company saw a neighbor in need and without hesitation they lent a hand. I am proud to call them neighbor, and in Montana there is no higher compliment.●

### IN MEMORY OF JULIANNE HAMMOND

● Mr. BIDEN. Mr. President, earlier this month, the Wilmington community lost Julianne Hammond—one of our most prominent lawyers and a good friend to my wife Jill.

She was the 28th woman ever admitted to practice law in Delaware and worked for 30 years in real estate finance and land use law, changing the landscape of our city with many redevelopment efforts.

Juli was a very outgoing, optimistic, happy person, who never let her illness get her down even as she battled breast cancer for 18 years. She literally worked until a week or so before she passed away, never talking about how sick she was.

She also was a very caring person and wanted to help others in their battles with cancer. That is how we got to know Juli. In 1994, she became a founding board member of the Biden Breast Health Initiative to help educate young women on the importance of breast self-exam and early detection. She would assist Jill with special events and raising funds, doing everything and anything to help others.

I don't know how she had the time and energy, but Juli also served as vice president of the board of the Wilmington Economic Development Corporation, a board member of the Land Use Committee for the Committee of 100, and secretary of the board of the Wellness Community of Delaware.

Wilmington and New Castle County will not be the same without Juli. I know my colleagues join Jill and me in extending our deepest sympathies to her family.

### MONTANA'S HEROES

● Mr. BAUCUS. Mr. President, the great America poet Robert Frost once said that ''good fences make good neighbors.'' In my home State of Montana, nothing could be further from the truth. Although our State is more than 600 miles wide, and nearly 300 miles long, we really are one big small town. And when one of our neighbors is in need, we are always willing to roll up our sleeves and lend a helping hand.

During this year's fire season, many of our neighbors were in dire need as fires raged across our State. Nearly 1 million acres burned, an area larger than the State of Rhode Island. As homes, livestock, crops, and land burned, Montanans from one corner of the State to the other lost everything they had. But from this destruction and rubble, arose many Montana heroes, and I would like to take a moment to publicly recognize them.

On the front lines were all the brave wild land firefighters. These men and women came from all over the country, and even some foreign countries, to put their lives on the line for people they had never met. While it is easy to be a Monday morning quarterback and criticize some of their techniques, it is clear that these brave men and women deserve nothing but praise. When I visited the fires and I looked into the men and women's eyes after working 12 hour days in 100 degree heat, as they were so exhausted they could hardly stand, I knew that they had given everything their all, 110 percent, to protect Montanans. These men and women sought no praise or recognition, and whenever they were congratulated they would merely say, ''We're just doing our jobs.'' But these men and women weren't just doing a job; they were saving lives, protecting property, and nothing could be more heroic. Words cannot do their deeds justice but on behalf of every Montanan, I would like to offer my deepest thanks.

And these men and women couldn't have done their job without all the support from different people and agencies throughout the State. All the folks at the Department of Natural Resources and Conservation, the Montana Department of Emergency Services, the Bureau of Indian Affairs, the Park Service, the U.S. Fish and Wildlife Service, Montana State and local law enforcement, the local governments and county commissioners, volunteer fire departments, and the Northern Rockies Coordinating Group, which coordinated all these efforts, and their Federal partners. All these folks worked tirelessly to manage these blazes. Day or night they were constantly monitoring the fires, providing important updates, and making sure the people of the affected communities had every resource possible to deal with these disasters.

I would also like to recognize all the people who worked behind the scenes, the people whose names might not appear in the news, but without whose effort these fires couldn't have been contained. The busdrivers, the local volunteers, the food service providers, the pilots, the list could go on and on. Without these services, the damage to my home State would have been much worse.

Finally, I would like to thank all the Montanans who rolled up their sleeves, saw a neighbor in need, and helped out. Whether it was ranchers helping move livestock, community organizations and churches holding clothing drives, or people opening their homes to those who had nowhere to go, all these people truly exemplify the Montana spirit.

The 2006 fire season will go down in history as one of worst in our State's history. Yet it will also go down as a time when neighbors helped neighbors, when people traveled hundreds of miles to lend a hand to a friend. It will go down as a time of heroes.●

### IN MEMORY OF ELLA LITTLE CROMWELL

● Mr. LIEBERMAN. Mr. President, it is with a heavy heart that I rise today in memory of Ella Little Cromwell, a truly remarkable woman from Hartford who passed away Sunday, September 17. Mrs. Cromwell was one of the most engaging and charismatic people I have ever had the pleasure to know. Through tireless effort, Ella Cromwell became a real political institution in Hartford, and was a leader in many efforts to promote justice and equal rights.

Mrs. Cromwell believed very deeply in the value of political participation and believed that it was essential for Americans from all backgrounds to become involved in the democratic process in order to reach their fullest potential. Growing up in Hartford, she saw that there were various obstacles preventing African Americans and other minorities from being involved in the political process, and she dedicated her life to helping people overcome those obstacles.

Through her hard work with both the Hartford Democratic Town Committee and the Hartford chapter of the National Association for the Advancement of Colored People, NAACP, of which she served as second vice president for many years, Mrs. Cromwell played an active role in helping African Americans develop a stronger voice in the city's politics. A master of both grassroots and retail politics, she was able to quickly increase her influence in Hartford politics, and helped to elect African-American candidates to local and State level offices. In many ways, her home in Hartford served as a kind of political club, where prospective candidates would come seeking her support and advice. It was well known that her support could be extremely helpful for any candidate.

Also, as a member of the Connecticut Democratic State Central Committee for 38 years, right up until her death, she made certain the interests of her community were represented at the State level as well. Almost every democratic candidate for statewide office would have to pay a visit to Ella Cromwell.

Rarely does an individual have such a meaningful and lasting effect on her community, but whether with the NAACP or the Democratic State Central Committee, Ella Cromwell never failed to touch the lives of the people around her. What is truly remarkable is the faith she continued to show in the power of the political process to effect change in her community, and the way in which she would continue to engage in the hard, sometimes thankless, work of grassroots campaigning even after she had achieved considerable political influence. Even at the age of 76 she would campaign door-to-door at the same brisk pace she had employed years earlier as young women first getting involved. Ella Cromwell truly embodied the democratic sprit upon which our country was founded.

With this in mind, I bid a sad farewell to Ella Little Cromwell, and I will keep her friends and family in my thoughts and prayers. May her commitment to the well-being of others continue to serve as an inspiration for all who knew her.●

## CHIEF ROB STONE: IN MEMORIAM

● Mrs. BOXER. Mr. President, today I honor the memory of a dedicated public servant, battalion chief Rob Stone of the California Department of Forestry. From the time he became a seasonal firefighter at the age of 18, Chief Stone devoted his adult life to providing the citizens of California with safety and service. On September 6, 2006, while assessing a fire from the air and coordinating ground firefighting efforts, Chief Stone was tragically killed in the line of duty when the spotter plane crashed in the rugged forest of the Mountain Home State Park.

Upon graduation from high school, Chief Stone attended the California Department of Forestry Firefighting Academy to pursue his lifelong goal of becoming a firefighter. His prodigious talents were evident as Chief Stone moved in rank from firefighter to become one of the youngest engineers ever in the California Department of Forestry. He was then promoted to captain, and his most recent assignment was battalion chief of the Porterville Air Attack Base. Chief Stone's commitment to excellence, coupled with his passion for his profession, enabled him to become a model member of the California Department of Forestry. Chief Stone's colleagues shall always remember him for his leadership and commitment to his job.

Chief Stone is survived by his wife Randi, son Wil, and daughter Libbie; parents Cliff and Janet; sister Melissa Martin; brother Marty; and his grandmother Louise Lyons. When he was not on duty or spending time with his family, Chief Stone was an avid outdoorsman who enjoyed gathering cows, hunting, fishing, and camping. Chief Stone served the State of California with honor and distinction and fulfilled his oath as a firefighter. His contributions and dedication to firefighting are greatly appreciated and will serve as a shining example of his legacy.

We shall always be grateful for Chief Stone's exemplary service and the sacrifices he made while serving and protecting the people and the land that he loved.●

## SIERRA OAKS SENIOR AND COMMUNITY CENTER

● Mrs. BOXER. Mr. President, today I wish to recognize and congratulate the Sierra Oaks Senior and Community Center for 20 years of dedicated service to the seniors in the communities of Tollhouse, Auberry, Shaver Lake, and Prather. Since opening their doors in 1986, this regional asset has made significant contributions to improving the lives of northeastern Fresno County's senior community and their families.

For the past two decades, the Sierra Oaks Senior and Community Center has provided a myriad of important social services and activities to help seniors live more independent and active lives. Whether it is providing free health assessments, offering classes in quilting, painting, and computers, or holding a stroke survivors support group, the center upholds the principle that seniors should be afforded the opportunity to live independently and thrive in their own communities. The dedicated staff and outstanding group of senior volunteers work diligently to ensure that those who are in need of their support are treated with the care and respect that they deserve. Through the center, many seniors have acquired invaluable tools to help them lead more active and enjoyable lives.

I congratulate the Sierra Oaks Senior and Community Center on its 20th anniversary and wish its staff, volunteers, and sponsors even greater success as they continue to provide important services to the seniors of Tollhouse, Auberry, Shaver Lake, and Prather. You have not only been a pillar of support for your clients, but you have performed a great service for the communities that you serve.

## HONORING THE UNIVERSITY OF REDLANDS

● Mrs. BOXER. Mr. President, today I recognize the University of Redlands. This academic year, the university celebrates its 100 anniversary.

The University of Redlands was originally chartered in 1907 on a tract of donated land by individuals associated with the American Baptist Church. It admitted its first student in September 1909 and in 1910 proudly celebrated its first graduating class of three students. Throughout the next century, the University of Redlands has become a preeminent institution and today celebrates a century of contribution and service through education.

With today's growth in population, there is an ever-present strain on our Nation's university systems and the ability of students to receive meaningful direct contact with university faculty. The University of Redlands has successfully maintained personal instruction throughout the years and continues today to maintain a student to faculty ratio of 12 to 1. There are currently over 200 full-time faculty and a core of 200 adjunct faculty who are selected for their expertise and experience in their fields. Throughout these past 100 years, the university has also maintained a high level of faculty quality, with 88 percent of the full-time faculty holding a Ph.D. or terminal degree.

The University of Redlands has successfully met the ever-changing needs of a diverse population. Over one-third of the university's students are members of historically underrepresented groups, and the student body represents all corners of the world and draws students from across the United States. Most recently, the entering class of 2006 saw 40 percent of its students from outside of the State of California.

The university's success contributes significantly to the growth of the local community. Its faculty and staff make the University of Redlands one of the largest employers in the region, helping to maintain a strong local economy. In the past decade, the university

has invested over $140 million in its physical plant, employing many local craftsmen and laborers. In addition to investing in the local economy and construction, the university invests significantly in its students, with over $28 million of university funds budgeted for need-based, merit-based or talent-based awards. This contribution has produced an alumni which has made a lasting impact on America, with 45,000 alumni currently contributing to the betterment of society throughout the world.

The University of Redlands' commitment to community outreach is seen most noticeably in its students' service and contributions. Over 80,000 community service hours are provided annually by University of Redlands' students to help meet local, national and international needs. Meeting these needs has been a fundamental tenet in the university's educational philosophy for many years, as it was one of the first educational institutions in the Nation to require community service as a condition for graduation.

On its centennial, the University of Redlands looks back on a proud history of growth and contribution in inland California and the world. I applaud the service and dedication of the faculty, staff, and students of the University of Redlands as they celebrate 100 years of improving lives and education.●

## TRIBUTE TO BRIAN UNITT

● Mrs. BOXER. Mr. President, today I wish to recognize inland southern California attorney Brian Unitt as he receives the San Bernardino County Bar Association's Florentino Garza Fortitude Award. Mr. Unitt is a community leader and an example to us all.

The Florentino Garza Award is given to exceptional individuals who overcome significant obstacles and achieve success in the legal field. This prestigious award takes its name from inland attorney Florentino Garza, who overcame a childhood as an orphan and a life as a migrant farmworker to graduate from college and law school and eventually gain prominence in the legal profession.

Today I recognize the exceptional work of Brian Unitt, who has overcome blindness to achieve outstanding success in the legal field. Brian Unitt was diagnosed with retinitis pigmentosa at a young age. This debilitating condition begins with a degeneration of cells in the eye's retina, producing reduced vision and eventual loss of sight.

Brian Unitt received his law degree from the University of California, Davis, in 1983. Throughout his undergraduate years and in law school, he took class notes in Braille using a slate and stylus, and he typed examinations using an electric typewriter. He passed the California State bar examination on his first attempt and began practicing law shortly thereafter in Riverside, CA. In 1996, Brian Unitt became partner at that same firm, now known as Holstein, Taylor, Unitt and Law.

As an attorney, Mr. Unitt practices personal injury law, focusing particularly on appellate work. His experience and dedication over the years has allowed him to be a tremendous advocate for injured individuals, assisting others who have suffered a physical loss. Other attorneys who have had the opportunity to know or work with Brian Unitt have described him as ''brilliant in his legal work,'' ''a true scholar of the law,'' ''a superb lawyer,'' ''a wonderful, wonderful, brilliant plaintiff's attorney,'' and ''civil, professional, and ethical.''

Today I salute the life and service of Brian Unitt. His life story is a true portrayal of a man who overcame tremendous physical adversity to assist others in their battle with physical adversity. I applaud Brian Unitt and look forward to what I hope will be many years of service to the people of inland California. Please join me in honoring a true hero.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and withdrawals which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

At 11:30 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4583. An act to amend the Wool Products Labeling Act of 1939 to revise the requirements for labeling of certain wool and cashmere products.

H.R. 5295. An act to protect students and teachers.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 210. Concurrent resolution supporting the goal of eliminating suffering and death due to cancer by the year 2015.

H. Con. Res. 317. Concurrent resolution requesting the President to issue a proclamation annually calling upon the people of the United States to observe Global Family Day, One Day of Peace and Sharing, and for other purposes.

H. Con. Res. 386. Concurrent resolution honoring Mary Eliza Mahoney, America's first professional trained African-American nurse.

H. Con. Res. 415. Concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

H. Con. Res. 419. Concurrent resolution recognizing and supporting the efforts of the State of New York to develop the National Purple Heart Hall of Honor in New Windsor, New York, and for other purposes.

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At 1:03 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 503. An act to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 4583. An act to amend the Wool Products Labeling Act of 1939 to revise the requirements for labeling of certain wool and cashmere products; to the Committee on Commerce, Science, and Transportation.

H.R. 5295. An act to protect students and teachers; to the Committee on Health, Education, Labor, and Pensions.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 210. Concurrent resolution supporting the goal of eliminating suffering and death due to cancer by the year 2015; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 386. Concurrent resolution honoring Mary Eliza Mahoney, America's first professionally trained African-American nurse; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 415. Concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is; to the Committee on Foreign Relations.

H. Con. Res. 419. Concurrent resolution recognizing and supporting the efforts of the State of New York develop the National Purple Heart Hall of Honor in New Windsor, New York, and for other purposes; to the Committee on Armed Services.

## MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 503. An act to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment:

S. 2912. A bill to establish the Great Lakes Interagency Task Force, to establish the Great Lakes Regional Collaboration, and for other purposes (Rept. No. 109–338).

S. 3551. A bill to direct the Secretary of the Interior to convey the Tylersville division of the Lamar National Fish Hatchery and Fish

Technology Center to the State of Pennsylvania (Rept. No. 109–339).

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 3617. A bill to reauthorize the North American Wetlands Conservation Act (Rept. No. 109–340).

H.R. 5061. A bill to direct the Secretary of the Interior to convey Paint Bank National Fish Hatchery and Wytheville National Fish Hatchery to the State of Virginia (Rept. No. 109–341).

By Mr. MCCAIN, from the Committee on Indian Affairs, without amendment:

H.R. 854. A bill to provide for certain lands to be held in trust for the Utu Utu Gwaitu Paiute Tribe (Rept. No. 109–342).

By Mr. MCCAIN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1535. A bill to amend the Cheyenne River Sioux Tribe Equitable Compensation Act to provide compensation to members of the Cheyenne River Sioux Tribe for damage resulting from the Oahe Dam and Reservoir Project, and for other purposes (Rept. No. 109–343).

S. 374. A bill to provide compensation to the Lower Brule and Crow Creek Sioux Tribes of South Dakota for damage to tribal land caused by Pick-Sloan projects along the Missouri River (Rept. No. 109–344).

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 108–23: Extradition Treaty with Great Britain and Northern Ireland with 1 understanding, 2 declarations and 3 provisos (Ex. Rept. 109–19)]

THE TEXT OF THE COMMITTEE RECOMMENDED RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION IS AS FOLLOWS

*Resolved (two-thirds of the Senators present concurring therein),*

Section 1. Senate Advice and Consent Subject to Understanding, Declarations, and Provisos.

The Senate advises and consents to the ratification of the Extradition Treaty between the United States of America and the United Kingdom of Great Britain and Northern Ireland, and related exchanges of letters, signed at Washington on March 31, 2003 (hereinafter in this resolution referred to as the ''Treaty'') (Treaty Doc. 108–23), subject to the understanding in section 2, the declarations in section 3, and the provisos in section 4.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding:

Under United States law, a United States judge makes a certification of extraditability of a fugitive to the Secretary of State. In the process of making such certification, a United States judge also makes determinations regarding the application of the political offense exception. Accordingly, the United States of America understands that the statement in paragraphs 3 and 4 of Article 4 that ''in the United States, the executive branch is the competent authority for the purposes of this Article'' applies only to those specific paragraphs of Article 4, and does not alter or affect the role of the United States judiciary in making certifications of extraditability or determinations of the application of the political offense exception.

Section 3. Declarations.

The advice and consent of the Senate under section 1 is subject to the following declarations:

(1) Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States.

(2) The Treaty shall be implemented by the United States in accordance with the Constitution of the United States and relevant federal law, including the requirement of a judicial determination of extraditability that is set forth in Title 18 of the United States Code.

Section 4. Provisos.

The advice and consent of the Senate under section 1 is subject to the following provisos:

(1)(A) The Senate is aware that concerns have been expressed that the purpose of the Treaty is to seek the extradition of individuals involved in offenses relating to the conflict in Northern Ireland prior to the Belfast Agreement of April 10, 1998. The Senate understands that the purpose of the Treaty is to strengthen law enforcement cooperation between the United States and the United Kingdom by modernizing the extradition process for all serious offenses and that the Treaty is not intended to reopen issues addressed in the Belfast Agreement, or to impede any further efforts to resolve the conflict in Northern Ireland.

(B) Accordingly, the Senate notes with approval—

(i) the statement of the United Kingdom Secretary of State for Northern Ireland, made on September 29, 2000, that the United Kingdom does not intend to seek the extradition of individuals who appear to qualify for early release under the Belfast Agreement;

(ii) the letter from the United Kingdom Home Secretary to the United States Attorney General in March 2006, emphasizing that the ''new treaty does not change this position in any way,'' and making clear that the United Kingdom ''want[s] to address the anomalous position of those suspected but not yet convicted of terrorism-related offences committed before the Belfast Agreement''; and

(iii) that these policies were reconfirmed in an exchange of letters between the United Kingdom Secretary of State for Northern Ireland and the United States Attorney General in September 2006.

(2) The Senate notes that, as in other recent United States extradition treaties, the Treaty does not address the situation where the fugitive is sought for trial on an offense for which he had previously been acquitted in the Requesting State. The Senate further notes that a United Kingdom domestic law may allow for the retrial in the United Kingdom, in certain limited circumstances, of an individual who has previously been tried and acquitted in that country. In this regard, the Senate understands that under U.S. law and practice a person sought for extradition can present a claim to the Secretary of State that an aspect of foreign law that may permit retrial may result in an unfairness that the Secretary could conclude warrants denial of the extradition request. The Senate urges the Secretary of State to review carefully any such claims made involving a request for extradition that implicates this provision of United Kingdom domestic law.

(3) Not later than one year after entry into force of the Treaty, and annually thereafter for a period of four additional years, the Secretary of State shall submit to the Committee on Foreign Relations of the Senate a report setting forth the following information with respect to the implementation of the Treaty in the previous twelve months:

(A) the number of persons arrested in the United States pursuant to requests from the United Kingdom under the Treaty, including the number of persons subject to provisional arrest; and a summary description of the alleged conduct for which the United Kingdom is seeking extradition;

(B) the number of extradition requests granted; and the number of extradition requests denied, including whether the request was denied as a result of a judicial decision or a decision of the Secretary of State;

(C) the number of instances the person sought for extradition made a claim to the Secretary of State of political motivation, unjustifiable delay, or retrial after acquittal and whether such extradition requests were denied or granted; and

(D) the number of instances the Secretary granted a request under Article 18(1)(c).

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. ENZI for the Committee on Health, Education, Labor, and Pensions.

*Stephen Goldsmith, of Indiana, to be a Member of the Board of Directors of the Corporation for National and Community Service for a term expiring October 6, 2010.

*Andrew von Eschenbach, of Texas, to be Commissioner of Food and Drugs, Department of Health and Human Services.

*Peter W. Tredick, of California, to be a Member of the National Mediation Board for a term expiring July 1, 2007.

*Sandra Pickett, of Texas, to be a Member of the National Museum and Library Services Board for a term expiring December 6, 2010.

*Roger L. Hunt, of Nevada, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2009.

*John E. Kidde, of California, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2011.

*Eliza McFadden, of Florida, to be a Member of the National Institute for Literacy Advisory Board for a term expiring January 30, 2009.

*Jane M. Doggett, of Montana, to be a Member of the National Council on the Humanities for a term expiring January 26, 2012.

*Randolph James Clerihue, of Virginia, to be an Assistant Secretary of Labor.

*Arthur K. Reilly, of New Jersey, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 2012.

*Lauren M. Maddox, of Virginia, to be Assistant Secretary for Communications and Outreach, Department of Education.

Mr. ENZI. Mr. President, for the Committee on Health, Education, Labor, and Pensions I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

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

*Public Health Service nominations beginning with Judith Louise Bader and ending with Raquel Antonia Peat, which nominations were received by the Senate and appeared in the Congressional Record on July 27, 2006.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## 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 Mrs. CLINTON (for herself, Ms. COLLINS, and Mrs. LINCOLN):

S. 3914. A bill to establish an Advisory Committee on Gestational Diabetes, to provide grants to better understand and reduce gestational diabetes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. HARKIN (for himself, Mr. DURBIN, Mr. DODD, Mr. LAUTENBERG, Mr. SCHUMER, and Mr. JOHNSON):

S. 3915. A bill to amend title XIX of the Social Security Act to encourage States to provide pregnant women enrolled in the Medical program with access to comprehensive tobacco cessation services; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD (for himself and Mr. HAGEL):

S. Res. 575. A resolution supporting the efforts of the Independent National Electoral Commission of the Government of Nigeria, political parties, civil society, and religious organizations to facilitate the first democratic transition of Nigeria from 1 civilian government to another in the general elections to be held in April 2007; to the Committee on Foreign Relations.

By Ms. MURKOWSKI (for herself, Mr. AKAKA, Mr. BIDEN, Mr. CHAMBLISS, Mrs. DOLE, Mr. DOMENICI, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. STEVENS, Mr. TALENT, Mr. FRIST, Mr. DEWINE, Mr. INOUYE, Mr. PRYOR, Mr. SALAZAR, Mr. SCHUMER, Ms. SNOWE, Mr. VITTER, and Mr. BURNS):

S. Res. 576. A resolution supporting the goals of Red Ribbon Week; considered and agreed to.

By Mr. BAUCUS (for himself, Mr. BURNS, and Mr. BYRD):

S. Res. 577. A resolution designating September 24, 2006, as ''National Good Neighbor Day''; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 246

At the request of Mr. BUNNING, the name of the Senator from Louisiana (Mr. VITTER) 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. 709

At the request of Mr. DEWINE, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 828

At the request of Mr. HARKIN, the names of the Senator from Pennsylvania (Mr. SANTORUM) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 828, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 930

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 930, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to drug safety, and for other purposes.

S. 965

At the request of Mr. SMITH, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 965, a bill to amend the Internal Revenue Code of 1986 to reduce the recognition period for built-in gains for subchapter S corporations.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1376

At the request of Mr. COCHRAN, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1376, a bill to improve and expand geographic literacy among kindergarten through grade 12 students in the United States by improving professional development programs for kindergarten through grade 12 teachers offered through institutions of higher education.

S. 1687

At the request of Ms. MIKULSKI, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from New York (Mr. SCHUMER), the Senator from Virginia (Mr. WARNER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

S. 1915

At the request of Mr. ENSIGN, the names of the Senator from Florida (Mr. NELSON) and the Senator from Arizona (Mr. MCCAIN) were added as cosponsors of S. 1915, a bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

S. 1948

At the request of Mrs. CLINTON, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1948, a bill to direct the Secretary of Transportation to issue regulations to reduce the incidence of child injury and death occurring inside or outside of passenger motor vehicles, and for other purposes.

S. 2250

At the request of Mr. GRASSLEY, the names of the Senator from Wisconsin (Mr. FEINGOLD) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 2250, a bill to award a congressional gold medal to Dr. Norman E. Borlaug.

S. 2354

At the request of Mr. NELSON of Florida, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2354, a bill to amend title XVIII of the Social Security Act to reduce the coverage gap in prescription drug coverage under part D of such title based on savings to the Medicare program resulting from the negotiation of prescription drug prices.

S. 2491

At the request of Mr. CORNYN, the names of the Senator from Wyoming (Mr. THOMAS), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2491, a bill to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

S. 2616

At the request of Mr. SANTORUM, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2616, a bill to amend the Surface Mining Control and Reclamation Act of 1977 and the Mineral Leasing Act to improve surface mining control and reclamation, and for other purposes.

S. 3500

At the request of Mr. THOMAS, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 3500, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 3707

At the request of Mr. LOTT, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 3707, a bill to improve consumer access to passenger vehicle loss data held by insurers.

S. 3771

At the request of Mr. HATCH, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 3771, a bill to amend the Public Health Service Act to provide additional authorizations of appropriations

for the health centers program under section 330 of such Act.

S. 3882

At the request of Mr. KYL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3882, a bill to amend title 18, United States Code, to support the war on terrorism, and for other purposes.

S. 3887

At the request of Mr. DORGAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 3887, a bill to prohibit the Internal Revenue Service from using private debt collection companies, and for other purposes.

S. CON. RES. 116

At the request of Mr. DODD, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. Con. Res. 116, a concurrent resolution supporting ''Lights On Afterschool!'', a national celebration of after school programs.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. CLINTON (for herself, Ms. COLLINS, and Mrs. LINCOLN):

S. 3914. A bill to establish an Advisory Committee on Gestational Diabetes, to provide grants to better understand and reduce gestational diabetes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, I am pleased to introduce the Gestational Diabetes Act of 2006 to bring attention to an important health issue facing women and children.

I don't need to tell anyone that we have an obesity epidemic in the United States. Too many in our country don't know that eating poorly and not taking care of themselves can have significant health impacts. For women, these health issues can become especially significant during pregnancy.

Women who are overweight or obese are more likely to have a C-section and are at an increased risk for serious complications with their pregnancy. And more women then ever are entering their pregnancies overweight which can also trigger gestational diabetes.

In New York, gestational diabetes has risen by nearly 50 percent in about 10 years. In New York City alone, gestational diabetes affects 1 in 25 women, about 400 women per month. Gestational diabetes affects between 4 and 8 percent of pregnant women in the United States. Infants of women who have gestational diabetes are at increased risk for obesity and developing Type 2 diabetes as adolescents or adults.

As women we need to pay attention to our health. We are always worrying about the health of our children, our husbands, and our parents. But we often forget to take care of ourselves.

Prevention is critical and I applaud new initiatives from the New York City Department of Health to increase efforts to inform women about gestational diabetes and behaviors that can prevent Type 2 Diabetes.

Today, I am introducing the Gestational Diabetes Act, also known as the GEDI Act. This legislation will increase our understanding by determining the factors that contribute to this condition and help mothers who had gestational diabetes reduce their risk of developing Type 2 diabetes.

This Act will provide funding for projects to assist health care providers and communities find ways to reach out to women so that they understand how their health during pregnancy will impact not only their child's health, but also their own.

The GEDI Act would expand research to determine and develop interventions that will lower the incidence of gestational diabetes. We need to alert women to the risk before this condition becomes an epidemic.

We should be doing everything we can to address the growing prevalence of gestational diabetes and obesity during pregnancy. The GEDI Act is an important step in assuring that women understand this critical issue.

The GEDI Act is supported by: American Association of Colleges of Pharmacy, American Association of Diabetes Educators, American Diabetes Association, American Dietetic Association, American College of Obstetricians and Gynecologists, Association of Asian Pacific Community Health Organizations, Association of Women's Health, Obstetric and Neonatal Nurses, Breastfeeding Coalition of Washington, Breastfeeding Task Force of Greater Los Angeles, Global Alliance for Women's Health, International Community Health Services, National Association of Chronic Disease Directors, National Research Center for Women & Families, Society for Women's Health Research, WithinReach, and Women's Health Council of the National Association of Chronic Disease Directors.

I ask unanimous consent letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN ASSOCIATION
OF COLLEGES OF PHARMACY,
*Alexandria, VA, August 9, 2006.*

Hon. HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: On behalf of America's 92 accredited colleges and schools of pharmacy let me personally thank you for your concern for the nearly 21 million children and adults with diabetes. The American Association of Colleges of Pharmacy (AACP) supports your introduction of legislation focused on an important cohort of individuals at risk for contracting diabetes—pregnant women.

The Gestational Diabetes Act will bring greater attention to a public health problem that left unchecked will overwhelm our society. Coupled with the growing incidence of obesity, gestational onset diabetes requires new, unique approaches and interventions that your legislation can help stimulate.

We know that pharmacists are effective in helping diabetic patients improve their health outcomes through self-management programs. These community-based providers have been effective in working with the greater public health community to increase the awareness of pregnant women of the need to increase their intake of folic acid to reduce the incidence of neural tube defects in newborns. Colleges and schools of pharmacy are actively engaged in working with communities to reduce the incidence of public health threats and creating novel health promotion and wellness programs. We encourage you to utilize this significant resource as your legislation continues its way through the Congress and on to final passage.

Thank you for your attention to an important public health threat. We look forward to working with you to improve the health of pregnant women by reducing their risk for gestational diabetes.

Sincerely,

WILLIAM G. LANG IV, MPH,
*VP Policy and Advocacy.*

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AMERICAN ASSOCIATION
OF DIABETES EDUCATORS,
*August 8, 2006.*

Senator HILLARY RODHAM CLINTON,
*Russel Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: On behalf of the American Association of Diabetes Educators, I would like to thank you for the introduction of the Gestational Diabetes Act.

The American Association of Diabetes Educators (AADE) is a multi-disciplinary professional membership organization dedicated to advancing the practice of diabetes self-management training and care as integral components of health care for persons with diabetes, and lifestyle management for prevention of diabetes. Our members include nurses, dietitians, pharmacists, physicians, social workers, exercise physiologists and other members of the diabetes teaching team.

Given the growing prevalence of diabetes in all populations, steps taken now will not only address the need to lower the incidence of gestational diabetes but prevent women with this condition and their children from developing Type 2 diabetes.

As an organization dedicated to improving the health and lives of people with diabetes, AADE appreciates your leadership on this important legislation and its intent to better understand and reduce the incidence of gestational diabetes.

Sincerely,

MALINDA PEEPLES, RN, MS, CDE,
*President.*

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AMERICAN DIABETES ASSOCIATION,
*Alexandria, VA, August 3, 2006.*

Hon. HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: Today, almost 21 million children and adults in America have diabetes—including 9.7 million women—and almost one third of them do not know it. On behalf of all Americans living with diabetes in our country, I would like to thank you for the introduction of the Gestational Diabetes Act. The American Diabetes Association enthusiastically supports this important legislation and its intent to better understand and reduce the incidence of gestational diabetes.

Gestational diabetes develops in 4–8% of all pregnancies, with the prevalence increasing up to 10% in some populations. Women who have had gestational diabetes or have given birth to a baby weighing more than 9 pounds are at a dramatically increased risk for developing type 2 diabetes later in life. The

Gestational Diabetes Act will allow for better data collection and expand the resources available to fight this dangerous disease. By setting up a national grant program, communities will be able to determine the most efficient and customized approaches to prevent, diagnose and treat gestational diabetes on the local level. Additionally, grants can be used by state-based diabetes prevention and control programs to collect and analyze surveillance data on women with and at risk for gestational diabetes, among other purposes. These components are crucial to stemming the tide of gestational diabetes in America, and lowering the overall incidence of diabetes in this country.

Every 24 hours, Americans pay a horrific price to diabetes: 4100 people are diagnosed with the disease, there are 230 amputations in people with diabetes, 120 people will enter end-stage kidney disease programs, and 55 people will go blind. During this same time period, there will be 613 deaths due to this epidemic. The American Diabetes Association believes that if we are to truly make strides against this devastating disease, we must improve treatment and research on the communities most impacted by diabetes.

The Association applauds your efforts on behalf of Americans with diabetes. We look forward to working with you toward the passage of the Gestational Diabetes Act and other legislation critical to Americans with diabetes.

Sincerely,

L. HUNTER LIMBAUGH,
*Chair, National Advocacy Committee.*

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AMERICAN DIETETIC ASSOCIATION,
*Washington, DC, September 8, 2006.*

Hon. HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: On behalf of the 65,000 registered dietitians who are members of the American Dietetic Association (ADA), we thank you for your leadership in introducing the Gestational Diabetes Act. While gestational diabetes is one of pregnancy's most common complications, the associated risks for mothers with GDM and their children are startling. In the United States, maternal obesity also is a concern and increases the risk of gestational diabetes, cesarean deliveries, and complications during delivery, macrosomia, congenital defects and childhood obesity. ADA has been in the forefront of this issue by developing evidence-based Nutrition Practice Guidelines for Gestational Diabetes Mellitus.

It is the position of the American Dietetic Association that women of childbearing potential should maintain good nutritional status through a lifestyle that optimizes maternal health and reduces the risk of birth defects, suboptimal fetal development, and chronic health problems in their children. The key components of a health promoting lifestyle during pregnancy include appropriate weight gain; consumption of a variety of foods in accordance with the Food Guide Pyramid; appropriate and timely vitamin and mineral supplementation; avoidance of alcohol, tobacco, and other harmful substances; and safe food-handling.

Women have specific nutritional needs and vulnerabilities and, as such, are at unique risk for various nutrition-related diseases and conditions. Therefore, ADA strongly supports research, health promotion activities, health services, and advocacy efforts that will enable women to adopt desirable nutrition practices for optimal health. Women are at risk for numerous chronic diseases and conditions that affect the duration and quality of their lives. Although women's health-related issues are multifaceted, nutrition has been shown to influence significantly the risk of chronic disease and to assist in maintaining optimal health status.

The American Dietetic Association strongly supports your efforts to create a Research Advisory Committee within CDC to address problems associated with gestational diabetes. Registered dietitians can play a unique role in providing medical nutrition therapy for pregnant women with inappropriate weight gain. As a result, ADA would like to work with you in ensuring that a qualified registered dietitian serves on the committee.

Sincerely,

RONALD E. SMITH,
*Director of Government Relations.*

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THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
*Washington, DC, August 4, 2006.*

Hon. HILLARY RODHAM CLINTON,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CLINTON, On behalf of the American College of Obstetricians and Gynecologists (ACOG), 51,000 physicians and partners in women's health care, we are pleased to support the GEstational DIabetes (GEDI) Act of 2006. This legislation would provide research, monitoring, screening and training for health care providers on gestational diabetes.

Gestational diabetes mellitus (GDM) is one of the most common clinical issues facing obstetricians and their patients. A lack of data from well-designed studies has contributed to the controversy surrounding the diagnosis and management of this condition. The GEDI Act of 2006 would provide critical funding for research and community education on this important issue. Because of the expertise and solid scientific evidence we have to contribute, we urge you to ensure ACOG's participation on the advisory committee created by this legislation.

Gestational diabetes affects 4 to 8 percent, approximately 135,000, of all pregnant women in the United States each year. The increase in obesity in the U.S. has raised the prevalence of gestational diabetes resulting in significant health consequences, including increased risk for developing Type 2 diabetes. This legislation could help reverse these negative trends.

Thank you for your continued leadership on women's health care issues and we are pleased to work with you to ensure enactment of this legislation of vital importance to women and babies. Should you have any questions, please contact Krysta Jones, of ACOG's Government Affairs staff.

Sincerely,

DOUGLAS W. LAUBE,
*President.*

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ASSOCIATION OF ASIAN PACIFIC COMMUNITY HEALTH ORGANIZATIONS,
*Oakland, CA, August 7, 2006.*

Senator HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON, On behalf of the Association of Asian Pacific Community Health Organizations (AAPCHO), I would like to thank you and express our support for the Gestational Diabetes (GEDI) Act of 2006.

AAPCHO is a non-profit national association of community health organizations. Our mission is to promote advocacy, collaboration and leadership that improves the health status and access of Asian Americans, Native Hawaiians and Pacific Islanders within the U.S. and its territories and freely associated states, primarily through our member community health centers.

Diabetes is a serious chronic condition among Asian Americans and Pacific Islanders (AAPIs). For FY 2003, AAPCHO member centers, serving primarily AAPIs, reported an average diabetes incidence rate of 11 per 1000 patients, far above the Healthy People 2010 target rate of 2.5 per 1000 patients. The Gestational Diabetes Act will improve treatment and research in the AAPI community.

We appreciate your efforts and look forward to working with you to improve the health status of AAPIs with diabetes through the GEDI Act and other legislation concerning diabetes. Please contact me if you have any questions or would like additional information.

Sincerely,

JEFFREY CABALLERO,
*Executive Director.*

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BREASTFEEDING TASK FORCE OF GREATER LOS ANGELES,
*Redondo Beach, CA, August 14, 2006.*

Sen. HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: On behalf of the Board of Directors of the Breastfeeding Task Force of Greater Los Angeles, I am writing to pledge our support of the Gestational Diabetes Act and urge the inclusion of breastfeeding in the research and treatment components. Gestational diabetes develops in 4 to 8 percent of all pregnancies, with the prevalence increasing up to 10 percent in some populations. Women who have gestational diabetes are at a dramatically increased risk for developing Type 2 diabetes later in life.

We support this legislation because it aims to lower the incidence of gestational diabetes and prevent women afflicted with this condition and their children from developing Type 2 diabetes. Research shows that lactation improves maternal glucose homeostasis, thus delaying or reducing the mother's risk of developing Type 2 diabetes. Babies born to mothers with gestational diabetes are at great risk for developing diabetes later in life. When these babies are breastfed, their risk is reduced.

In Los Angeles County, approximately 10,000 women are afflicted with gestational diabetes each year. The Breastfeeding Task Force of Greater Los Angeles believes that if we are to improve the lives of these women, we must support and protect breastfeeding in the communities most impacted by diabetes. The Gestational Diabetes Act will improve data collection and expand resources available for prevention, diagnosis and treatment. These activities are critical to battling gestational diabetes in America.

The Breastfeeding Task Force of Greater Los Angeles thanks you for your efforts on behalf of the mothers affected by gestational diabetes and their babies. We look forward to working with you toward the passage of the Gestational Diabetes Act and other legislation critical to mothers and babies.

Sincerely,

KAREN PETERS,
*Executive Director.*

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AWHONN,
*Washington, DC, August 8, 2006.*

Senator HILLARY CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: The Association of Women's Health, Obstetric and Neonatal Nurses (AWHONN) would like to thank you for introducing the Gestational Diabetes Act. AWHONN is a national membership organization of 22,000 nurses, and it is our mission to promote the health and well-being of women and newborns. Our members are staff nurses, nurse practitioners, certified nurse-midwives, and clinical nurse specialists who work in hospitals, physicians' offices, universities, and community clinics throughout the United States. AWHONN supports this

important legislation and its intent to better understand and reduce the incidence of gestational diabetes.

As you know, almost 21 million Americans have diabetes including 9.7 million women. Gestational diabetes develops in 4 to 8 percent of all pregnancies with the prevalence rate reaching up to 10 percent in some populations according to the American Diabetes Association. Significant negative health impacts exist for women during and after pregnancy and for infants as a result of gestational diabetes. For example, women and infants run a higher risk for developing Type 2 diabetes in their lifetimes; pregnant women are at risk for preeclampsia; and, newborns at risk for having low blood sugar and severe jaundice.

The Gestational Diabetes Act seeks to establish a Research Advisory Committee that will develop multi-site gestational diabetes research projects to expand and enhance monitoring of gestational diabetes by standardizing procedures for accurate data collection and identifications of this disorder. In addition, the bill allows for demonstration grant programs that are focused on the reduction of the incidence rate of gestational diabetes. Finally, the bill calls for an expansion on current research at the Centers for Disease Control and the National Institutes of Health.

AWHONN applauds your leadership on this issue, and we support the introduction of the Gestational Diabetes Act. We look forward to working with you towards the passage of this legislation that is critical for improving the research on and treatment of gestational diabetes, which ultimately affects the health and well-being of both women and newborns throughout their lifespan.

Sincerely,

MELINDA M. RAY,
*Director, Public Affairs.*

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GLOBAL ALLIANCE
FOR WOMEN'S HEALTH,
*New York, NY, August 9, 2006.*

Senator HILLARY RODHAM CLINTON,
*Russell Senate Office Building, Washington, DC.*

DEAR SENATOR CLINTON. The Global Alliance for Women's Health endorses the National Public Health Initiative on Diabetes and Women's Health. It addresses an important and underattended aspect of women's health. The passage and implementation of this initiative will significantly advance the health of American women and will undoubtedly provide guidance for those of us working to advance the health of women worldwide.

Sincerely,

ELAINE M. WOLFSON,
*President.*

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INTERNATIONAL COMMUNITY
HEALTH SERVICES,
*Washington, DC, August 8, 2006.*

Senator HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: International Community Health Services (ICHS) applauds your efforts in raising awareness and support for gestational diabetes research and prevention. ICHS supports the introduction and passage of the Gestational Diabetes Act.

ICHS is currently a member of the REACH diabetes coalition, a CDC program which provides funding for outreach and education to minority populations, but is limited to people 40 years and older. We serve 15,000 patients speaking 35 languages with the majority being women in their childbearing years who are disproportionately affected by diabetes. In our 2006 community needs assessment diabetes was identified by doctors and community members as one of the highest concerns. Due to this disproportionate affect and community concern, our clinics offer special services for patients with diabetes. Additionally preventing diabetes from developing and mitigating the harmful effects falls in line with the Healthy People 2010 objectives.

Thank you for taking the lead on the important issue of gestational diabetes. With growing rates of obesity and women becoming mothers later in life, this is a crucial time to take action and provide funding for further research.

ICHS is proud to support the Gestational Diabetes Act and we commend Senator Clinton for introducing the legislation.

Sincerely,

TERESITA BATAYOLA,
*Executive Director.*

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NATIONAL ASSOCIATION OF
CHRONIC DISEASE DIRECTORS,
*Washington, DC, August 7, 2006.*

Senator HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: Today, almost 21 million children and adults in America have diabetes—including 9.7 million women—and almost one-third of them do not know it. On behalf of all Americans living with diabetes in our country, I would like to thank you for the introduction of the Gestational Diabetes Act. The National Association of Chronic Disease Directors (NACDD), a membership organization of program directors and staff in every state and territorial health department, enthusiastically supports this important legislation and its intent to better understand and reduce the incidence of gestational diabetes.

Gestational diabetes develops in 4–8 percent of all pregnancies, with the prevalence increasing up to 10 percent in some populations. Women who have had gestational diabetes or have given birth to a baby weighing more than 9 pounds are at a dramatically increased risk for developing type 2 diabetes later in life. The Gestational Diabetes Act will allow for better data collection and expand the resources available to fight this dangerous disease. Creating a national program will allow states to determine the most efficient and customized approach to prevent, diagnose and treat gestational diabetes at the local level. Additionally, grants can be used by state-based diabetes prevention and control programs to collect and analyze surveillance data on women with and at risk for gestational diabetes. These components are crucial to stemming the tide of gestational diabetes in America and lowering the overall incidence of diabetes in this country.

Every 24 hours, Americans pay a horrific price to diabetes: 4,100 people are diagnosed with the disease, there are 230 amputations in people with diabetes, 120 people will enter end-stage kidney disease programs, and 55 people will go blind. During this same time period, there will be 613 deaths due to this epidemic. The National Association of Chronic Disease Directors believes that if we are to truly make strides against this devastating disease, we must improve prevention and control in the communities most impacted by diabetes.

NACDD applauds your efforts on behalf of Americans with diabetes. We look forward to working with you toward the passage of the Gestational Diabetes Act and other legislation critical to Americans with diabetes.

Sincerely,

DAVID P. HOFFMAN,
*Chair, Legislative and Policy Committee.*

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NATIONAL RESEARCH CENTER
FOR WOMEN & FAMILIES,
*Washington, DC, September 12, 2006.*

Hon. HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: The National Research Center for Women & Families applauds your leadership in introducing the ''GEstational DIabetes (GEDI) Act of 2006''.

We share your concern that gestational diabetes is associated with potentially serious health problems for the mother and child during and after childbirth. Gestational diabetes increases a mother and child's risk for developing Type 2 diabetes. With 135,000 women per year being diagnosed with gestational diabetes and that number steadily increasing, it is necessary to better understand the disease and to prevent the development of Type 2 diabetes. Data collection and monitoring gestational diabetes and obesity during pregnancy are essential first steps. The GEDI Act's data systems, demonstration grants, and research expansion will all aid in lowering the incidence of gestational diabetes and will help prevent Type 2 diabetes.

Thank you again for your vision and leadership in drawing attention to this and many other important health issues.

Sincerely,

DIANA M. ZUCKERMAN,
*President.*

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SOCIETY FOR WOMEN'S
HEALTH RESEARCH,
*Washington, DC, August 11, 2006.*

Senator HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: Today, almost 21 million children and adults in America have diabetes, including 9.7 million women. Gestational diabetes develops in 4–8 percent of all pregnancies, with the prevalence increasing up to 10 percent in some populations. On behalf of all Americans living with diabetes in our country, the Society for Women's Health Research (SWHR) thanks you for the introduction of the Gestational Diabetes Act.

As the nation's only advocacy organization committed to improving the health of all women through research, the Society supports this important legislation, with its focus on learning more about treatment and prevention of gestational diabetes through research. The Gestational Diabetes Act will allow for better data collection and to analyze surveillance data on women with and at risk for gestational diabetes, among other purposes. These components are crucial to stemming the tide of gestational diabetes in America, and lowering the overall incidence of diabetes in this country.

Thank you for your leadership and your support of women's health research.

Sincerely,

PHYLLIS GREENBERGER,
*President & CEO.*
MARTHA NOLAN,
*Vice President, Public Policy.*

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WITHINREACH,
*Seattle, WA, August 9, 2006.*

Senator HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: Thank you for the introduction of the Gestational Diabetes Act. WithinReach (formerly Healthy Mothers, Healthy Babies Coalition of Washington State) and the Breastfeeding Coalition of Washington State (a program of WithinReach) enthusiastically support this legislation and the need for Americans to better understand and reduce the incidence of gestational diabetes.

You may not be aware of the connection between early nutrition and its impact on diabetes. Specifically, not breastfeeding increases the risk of diabetes (in both infant and mother). A review of the literature by Schaefer-Graf et al, demonstrate that among children of women who have GDM, having been breast fed for over 3 months is negatively associated with being overweight in early childhood. In this group, the risk of childhood overweight was reduced by 40–50 percent. The effect was most pronounced when the mother was obese.

Breastfeeding mothers provide their children with a lower risk of infection and chronic diseases. There is a clear dose-response relationship between duration of breastfeeding and the extent of risk reduction. Breastfeeding improves the health of infants and mothers and can result in cost savings for parents, insurers, employers, and society. The medical and economic value of breast feeding is high. Support from employers, health insurers, health providers, and society are required to reach the goals set forth in Healthy People 2010 including 75 percent of mothers initiating breastfeeding, 50 percent of infants receiving breastmilk at 6 months, and 25 percent of infants breastfeeding at 1 year of age.

Most women want to breastfeed and deserve our help in fulfilling their goals, including providing them societal support and sparing them societal experiences that make it difficult to succeed. The GeDi Act and an increased rate of breast feeding will proactively improve the health of Americans, as well as decrease diabetes and its related illnesses and medical costs.

WithinReach and the Breastfeeding Coalition of Washington State applaud your efforts and ask that you ensure the important health and economic connection between breast feeding and diabetes is made.

Sincerely,

GINNY ENGLISH,
*Executive Director, WithinReach.*
KIMBERLY RADTKE,
*Coordinator, Breastfeeding Coalition of Washington.*

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NATIONAL ASSOCIATION OF CHRONIC DISEASE DIRECTORS,
*Washington, DC, August 8, 2006.*

Senator HILLARY RODHAM CLINTON,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR CLINTON: Current national behavioral health statistics reveal that 7.2 percent of U.S. women 18 years of age and older have diabetes. This number is underestimated due to 30 percent of women who have diabetes have not been diagnosed. Of the women surveyed, 1.6 percent states that their diabetes was pregnancy related or Gestational diabetes. Gestational diabetes occurs in 4–8 percent of pregnancies and places both the woman and her infant at greater risk for developing type 2 diabetes and is associated with health problems for both woman and child during the pregnancy and childbirth. With the increasing rise in obesity, the prevalence of gestational diabetes is also rising, however genetics, ethnicity, and maternal age are risk factors for the disease. Over the last several decades, the science of diagnosing and treating Gestational Diabetes advanced, but additional research is needed to understand the complex interrelationships of obesity, genetics, ethnicity and diabetes in women.

Women and diabetes are major priorities of the Women's Health Council of the National Association of Chronic Disease Directors. The Council is currently studying the issues surrounding diabetes and young women through the ''Pregnancy Risk Assessment Surveillance System. The Council supports your proposed legislation as the legislation further enhances the science of diabetes and its impact on women. Also, the Women's Health Council serves as an active member of the National Public Health Initiative on Diabetes and Women's Health and this proposed legislation furthers the objectives of this Initiative.

The Gestational Diabetes Act creates a Research Advisory Committee headed by the CDC and includes representatives of federal agencies, and health organizations to develop demonstration grants funding multisite gestational diabetes research projects to expand and enhance monitoring of gestational diabetes by standardizing procedures for accurate data collection and identifying this disorder. This bill also tracks mothers who had gestational diabetes and develop methods to prevent their development of Type 2 diabetes.

Thank you for developing policy that supports women and their health status.

Sincerely,

ADELINE YERKES,
*Chairperson, Women's Health Council.*

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 575—SUPPORTING THE EFFORTS OF THE INDEPENDENT NATIONAL ELECTORAL COMMISSION OF THE GOVERNMENT OF NIGERIA, POLITICAL PARTIES, CIVIL SOCIETY, AND RELIGIOUS ORGANIZATIONS TO FACILITATE THE FIRST DEMOCRATIC TRANSITION OF NIGERIA FROM 1 CIVILIAN GOVERNMENT TO ANOTHER IN THE GENERAL ELECTIONS TO BE HELD IN APRIL 2007

Mr. FEINGOLD (for himself and Mr. HAGEL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 575

Whereas the United States maintains strong and friendly relations with Nigeria and values the leadership role that the United States plays throughout the continent of Africa, particularly in the establishment of the New Partnership for African Development and the African Union;

Whereas Nigeria is an important strategic partner with the United States in combating terrorism, promoting regional stability, and improving energy security;

Whereas Nigeria is a leading contributor to global peacekeeping efforts, including operations in Lebanon, Yugoslavia, Kuwait, the Democratic Republic of Congo, Somalia, Rwanda, and Sudan;

Whereas past corruption and poor governance have resulted in weak political institutions, crumbling infrastructure, a feeble economy, and an impoverished population;

Whereas political aspirants and the democratic process of Nigeria are being threatened by increasing politically-motivated violence, including the assassination of 3 gubernatorial candidates in different states during the previous 2 months; and

Whereas the Chairperson of the Independent National Electoral Commission has—

(1) announced that governorship and state assembly elections will be held on April 14, 2007;

(2) stated that votes for the president and national assembly will take place on April 21, 2007; and

(3) vowed to organize free and fair elections to facilitate a smooth democratic transition: Now, therefore, be it

*Resolved*, That the Senate—

(1) recognizes the importance of Nigeria as a strategic partner and long-time friend of the United States;

(2) acknowledges the rising prominence of Nigeria as a leader and role model throughout the region and continent;

(3) commends the decision of the National Assembly of Nigeria to reject an amendment to the constitution that would have allowed for a third presidential term;

(4) encourages the Government of Nigeria and the Independent National Electoral Commission to demonstrate a commitment to successful democratic elections by—

(A) developing an aggressive plan for voter registration and education;

(B) addressing charges of past or intended corruption in a transparent manner; and

(C) conducting objective and unbiased recruitment and training of election officials;

(5) urges the Government of Nigeria to respect the freedoms of association and assembly, including the right of candidates, members of political parties, and others—

(A) to freely assemble;

(B) to organize and conduct public events; and

(C) to exercise those and other rights in a manner free from intimidation or harassment;

(6) urges a robust effort by the law enforcement and judicial officials of Nigeria to enforce the rule of law, particularly by—

(A) preventing and investigating politically-motivated violence; and

(B) prosecuting those suspected of such acts;

(7) urges—

(A) President Bush to ensure that the United States supports the Government of Nigeria in that regard; and

(B) the Government of Nigeria to actively seek the support of the international community for democratic, free, and fair elections in April 2007; and

(8) expresses the support of the United States for coordinated efforts by the Government of Nigeria and the Independent National Electoral Commission to work with political parties, civil society, religious organizations, and other entities to organize a peaceful political transition based on free and fair elections in April 2007 to further consolidate the democracy of Nigeria.

### SENATE RESOLUTION 576—SUPPORTING THE GOALS OF RED RIBBON WEEK

Ms. MURKOWSKI (for herself, Mr. AKAKA, Mr. BIDEN, Mr. CHAMBLISS, Mrs. DOLE, Mr. DOMENICI, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. STEVENS, Mr. TALENT, Mr. FRIST, Mr. DEWINE, Mr. INOUYE, Mr. PRYOR, Mr. SALAZAR, Mr. SCHUMER, Ms. SNOWE, Mr. VITTER, and Mr. BURNS) submitted the following resolution; which was considered and agreed to:

S. RES. 576

Whereas the Governors and Attorneys General of the States, the National Family Partnership, Parent Teacher Associations, Boys and Girls Clubs of America, and more than 100 other organizations throughout the United States annually cosponsor Red Ribbon Week during the week of October 23 through October 31;

Whereas a purpose of the Red Ribbon Campaign is to commemorate the service of Enrique ''Kiki'' Camarena, a special agent of

the Drug Enforcement Administration who died in the line of duty in 1985 while engaged in the battle against illicit drugs;

Whereas the Red Ribbon Campaign is nationally recognized and is in its twenty-first year of celebration to help preserve the memory of Special Agent Camarena and further the cause for which he gave his life;

Whereas the objective of Red Ribbon Week is to promote the creation of drug-free communities through drug prevention efforts, education, parental involvement, and community-wide support;

Whereas drug and alcohol abuse places the lives of children at risk and contributes to domestic violence and sexual assaults;

Whereas drug abuse is one of the major challenges that the citizens of the United States face in securing a safe and healthy future for the families and children of our Nation;

Whereas emerging drug threats, such as the growing epidemic of methamphetamine abuse and the abuse of inhalants and prescription drugs, jeopardize the progress made against illegal drug abuse; and

Whereas parents, youths, schools, businesses, law enforcement agencies, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the United States demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this week-long celebration: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals of Red Ribbon Week;

(2) encourages children and teens to choose to live drug-free lives; and

(3) encourages all people of the United States—

(A) to promote the creation of drug-free communities; and

(B) to participate in drug prevention activities to show support for healthy, productive, and drug-free lifestyles.

## SENATE RESOLUTION 577—DESIGNATING SEPTEMBER 24, 2006, AS ''NATIONAL GOOD NEIGHBOR DAY''

Mr. BAUCUS (for himself, Mr. BURNS, and Mr. BYRD) submitted the following resolution; which was considered and agreed to:

S. RES. 577

Whereas our society has developed highly effective means of speedy communication around the world, but has failed to ensure meaningful communication among people living across the globe, or even across the street, from one another;

Whereas the endurance of human values and consideration for others are critical to the survival of civilization; and

Whereas being good neighbors to those around us is the first step toward human understanding: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates September 24, 2006, as ''National Good Neighbor Day''; and

(2) calls on the people of the United States and interested groups and organizations to observe National Good Neighbor Day with appropriate ceremonies and activities.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 5021. Mrs. FEINSTEIN (for herself and Mr. CRAIG) submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table.

SA 5022. Mr. CRAIG (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5023. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra; which was ordered to lie on the table.

SA 5024. Mr. MCCONNELL (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, and Ms. SNOWE)) proposed an amendment to the bill S. 3525, to reauthorize the safe and stable families program, and for other purposes.

SA 5025. Mr. MCCONNELL (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, and Ms. SNOWE)) proposed an amendment to the bill S. 3525, supra.

## TEXT OF AMENDMENTS

**SA 5021.** Mrs. FEINSTEIN (for herself and Mr. CRAIG) submitted an amendment intended to be proposed by her to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

**TITLE II—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY**

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2006'' or the ''AgJOBS Act of 2006''.

**SEC. 202. 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) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 211(a).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) 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.

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(7) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(8) 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)).

(9) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

**Subtitle A—PILOT PROGRAM FOR EARNED STATUS ADJUSTMENT OF AGRICULTURAL WORKERS**

**SEC. 211. AGRICULTURAL WORKERS.**

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(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); and

(D) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an ''employment authorized'' endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this title that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(IV) fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to $100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted permanent resident status under subsection (c).

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(bb) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of subclause (I) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(ii) PROOF.—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (a)(5); or

(II) such documentation as may be submitted under subsection (d)(3).

(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under clause (i)(I), the Secretary may credit the alien with not more than 12 additional months to meet the requirement under clause (i) if the alien was unable to work in agricultural employment due to—

(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) FINE.—The alien pays a fine to the Secretary in an amount equal to $400.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(C) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) PAYMENT OF TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this

subsection, the alien shall establish the payment of any applicable Federal tax liability by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been paid; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of clause (i), the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subparagraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—

(i) REMOVAL.—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) TRAVEL.—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) EMPLOYMENT.—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this title 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)(ii) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department, or a bureau or agency of the Department, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department, or a bureau or agency of the Department, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly

related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in subsection (a)(1)(B), including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this section, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2007 and 2008.

**SEC. 212. CORRECTION OF SOCIAL SECURITY RECORDS.**

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2006,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

**Subtitle B—REFORM OF H–2A WORKER PROGRAM**

**SEC. 221. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.**

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

**''SEC. 218. H–2A EMPLOYER APPLICATIONS.**

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 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 and 218B.

''(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.

**''SEC. 218A. H–2A EMPLOYMENT REQUIREMENTS.**

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2006 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to

this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including 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.

**''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.**

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 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, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of an eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)((3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary of Homeland Security shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

**''SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.**

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). 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 an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 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.

**''SEC. 218D. DEFINITIONS.**

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 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. 231. 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 title. Such fees shall be the only fees chargeable to employers for services provided under this title.

(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 amended by section 221 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 title, 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 amended and added, respectively by section 221 of this Act, and the provisions of this title.

**SEC. 232. 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, 218C, and 218D of the Immigration and Nationality Act, as added by section 221 of this Act, shall take effect on the effective date of section 221 and shall be issued not later than 1 year after the date of enactment of this Act.

**SEC. 233. REPORTS TO CONGRESS.**

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 211(a);

(5) the number of such aliens whose status was adjusted under section 211(a);

(6) the number of aliens who applied for permanent residence pursuant to section 211(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 211(c).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment

of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this title.

**SEC. 234. EFFECTIVE DATE.**

Except as otherwise provided, sections 221 and 231 shall take effect 1 year after the date of the enactment of this Act.

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**SA 5022.** Mr. CRAIG (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 7, after line 10, insert the following:

**TITLE II—AGRICULTURAL JOB OPPORTUNITIES, BENEFITS, AND SECURITY**

**SEC. 201. SHORT TITLE.**

This title may be cited as the ''Agricultural Job Opportunities, Benefits, and Security Act of 2006'' or the ''AgJOBS Act of 2006''.

**SEC. 202. 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) BLUE CARD STATUS.—The term ''blue card status'' means the status of an alien who has been lawfully admitted into the United States for temporary residence under section 211(a).

(3) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.

(4) EMPLOYER.—The term ''employer'' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

(5) 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.

(6) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

(7) TEMPORARY.—A worker is employed on a ''temporary'' basis where the employment is intended not to exceed 10 months.

(8) 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)).

(9) WORK DAY.—The term ''work day'' means any day in which the individual is employed 5.75 or more hours in agricultural employment.

**Subtitle A—Pilot Program for Earned Status Adjustment of Agricultural Workers**

**SEC. 211. AGRICULTURAL WORKERS.**

(a) BLUE CARD PROGRAM.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer blue card status upon an alien who qualifies under this subsection if the Secretary determines that the alien—

(A) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2005;

(B) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act;

(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); and

(D) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(2) AUTHORIZED TRAVEL.—An alien in blue card status has the right to travel abroad (including commutation from a residence abroad) in the same manner as an alien lawfully admitted for permanent residence.

(3) AUTHORIZED EMPLOYMENT.—An alien in blue card status shall be provided an ''employment authorized'' endorsement or other appropriate work permit, in the same manner as an alien lawfully admitted for permanent residence.

(4) TERMINATION OF BLUE CARD STATUS.—

(A) IN GENERAL.—The Secretary may terminate blue card status granted under this subsection only upon a determination under this title that the alien is deportable.

(B) GROUNDS FOR TERMINATION OF BLUE CARD STATUS.—Before any alien becomes eligible for adjustment of status under subsection (c), the Secretary may deny adjustment to permanent resident status and provide for termination of the blue card status granted such alien under paragraph (1) if—

(i) the Secretary finds, by a preponderance of the evidence, that the adjustment to blue card status was the result of fraud or willful misrepresentation (as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States;

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500; or

(IV) fails to perform the agricultural employment required under subsection (c)(1)(A)(i) unless the alien was unable to work in agricultural employment due to the extraordinary circumstances described in subsection (c)(1)(A)(iii).

(5) RECORD OF EMPLOYMENT.—

(A) IN GENERAL.—Each employer of a worker granted status under this subsection shall annually—

(i) provide a written record of employment to the alien; and

(ii) provide a copy of such record to the Secretary.

(B) SUNSET.—The obligation under subparagraph (A) shall terminate on the date that is 6 years after the date of the enactment of this Act.

(6) REQUIRED FEATURES OF BLUE CARD.—The Secretary shall provide each alien granted blue card status and the spouse and children of each such alien residing in the United States with a card that contains—

(A) an encrypted, machine-readable, electronic identification strip that is unique to the alien to whom the card is issued;

(B) biometric identifiers, including fingerprints and a digital photograph; and

(C) physical security features designed to prevent tampering, counterfeiting, or duplication of the card for fraudulent purposes.

(7) FINE.—An alien granted blue card status shall pay a fine to the Secretary in an amount equal to $100.

(8) MAXIMUM NUMBER.—The Secretary may issue not more than 1,500,000 blue cards during the 5-year period beginning on the date of the enactment of this Act.

(b) RIGHTS OF ALIENS GRANTED BLUE CARD STATUS.—

(1) IN GENERAL.—Except as otherwise provided under this subsection, an alien in blue card status shall be considered to be an alien lawfully admitted for permanent residence for purposes of any law other than any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) DELAYED ELIGIBILITY FOR CERTAIN FEDERAL PUBLIC BENEFITS.—An alien in blue card status shall not be eligible, by reason of such status, for any form of assistance or benefit described in section 403(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(a)) until 5 years after the date on which the alien is granted permanent resident status under subsection (c).

(3) TERMS OF EMPLOYMENT RESPECTING ALIENS ADMITTED UNDER THIS SECTION.—

(A) PROHIBITION.—No alien granted blue card status may be terminated from employment by any employer during the period of blue card status except for just cause.

(B) TREATMENT OF COMPLAINTS.—

(i) ESTABLISHMENT OF PROCESS.—The Secretary shall establish a process for the receipt, initial review, and disposition of complaints by aliens granted blue card status who allege that they have been terminated without just cause. No proceeding shall be conducted under this subparagraph with respect to a termination unless the Secretary determines that the complaint was filed not later than 6 months after the date of the termination.

(ii) INITIATION OF ARBITRATION.—If the Secretary finds that a complaint has been filed in accordance with clause (i) and there is reasonable cause to believe that the complainant was terminated without just cause, the Secretary shall initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint a mutually agreeable arbitrator from the roster of arbitrators maintained by such Service for the geographical area in which the employer is located. The procedures and rules of such Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings. The Secretary shall pay the fee and expenses of the arbitrator, subject to the availability of appropriations for such purpose.

(iii) ARBITRATION PROCEEDINGS.—The arbitrator shall conduct the proceeding in accordance with the policies and procedures promulgated by the American Arbitration Association applicable to private arbitration of employment disputes. The arbitrator shall make findings respecting whether the termination was for just cause. The arbitrator may not find that the termination was for just cause unless the employer so demonstrates by a preponderance of the evidence. If the arbitrator finds that the termination was not for just cause, the arbitrator shall make a specific finding of the number of days or hours of work lost by the employee as a result of the termination. The arbitrator shall have no authority to order any other remedy, including reinstatement, back pay, or front pay to the affected employee. Within 30 days from the conclusion of the arbitration proceeding, the arbitrator shall

transmit the findings in the form of a written opinion to the parties to the arbitration and the Secretary. Such findings shall be final and conclusive, and no official or court of the United States shall have the power or jurisdiction to review any such findings.

(iv) EFFECT OF ARBITRATION FINDINGS.—If the Secretary receives a finding of an arbitrator that an employer has terminated an alien granted blue card status without just cause, the Secretary shall credit the alien for the number of days or hours of work lost for purposes of the requirement of subsection (c)(1).

(v) TREATMENT OF ATTORNEY'S FEES.—The parties shall bear the cost of their own attorney's fees involved in the litigation of the complaint.

(vi) NONEXCLUSIVE REMEDY.—The complaint process provided for in this subparagraph is in addition to any other rights an employee may have in accordance with applicable law.

(vii) EFFECT ON OTHER ACTIONS OR PROCEEDINGS.—Any finding of fact or law, judgment, conclusion, or final order made by an arbitrator in the proceeding before the Secretary shall not be conclusive or binding in any separate or subsequent action or proceeding between the employee and the employee's current or prior employer brought before an arbitrator, administrative agency, court, or judge of any State or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts, except that the arbitrator's specific finding of the number of days or hours of work lost by the employee as a result of the employment termination may be referred to the Secretary pursuant to clause (iv).

(C) CIVIL PENALTIES.—

(i) IN GENERAL.—If the Secretary finds, after notice and opportunity for a hearing, that an employer of an alien granted blue card status has failed to provide the record of employment required under subsection (a)(5) or has provided a false statement of material fact in such a record, the employer shall be subject to a civil money penalty in an amount not to exceed $1,000 per violation.

(ii) LIMITATION.—The penalty applicable under clause (i) for failure to provide records shall not apply unless the alien has provided the employer with evidence of employment authorization granted under this section.

(c) ADJUSTMENT TO PERMANENT RESIDENCE.—

(1) AGRICULTURAL WORKERS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall adjust the status of an alien granted blue card status to that of an alien lawfully admitted for permanent residence if the Secretary determines that the following requirements are satisfied:

(i) QUALIFYING EMPLOYMENT.—

(I) IN GENERAL.—Subject to subclause (II), the alien has performed at least—

(aa) 5 years of agricultural employment in the United States for at least 100 work days per year, during the 5-year period beginning on the date of the enactment of this Act; or

(bb) 3 years of agricultural employment in the United States for at least 150 work days per year, during the 3-year period beginning on the date of the enactment of this Act.

(II) 4-YEAR PERIOD OF EMPLOYMENT.—An alien shall be considered to meet the requirements of subclause (I) if the alien has performed 4 years of agricultural employment in the United States for at least 150 work days during 3 years of those 4 years and at least 100 work days during the remaining year, during the 4-year period beginning on the date of the enactment of this Act.

(ii) PROOF.—An alien may demonstrate compliance with the requirement under clause (i) by submitting—

(I) the record of employment described in subsection (a)(5); or

(II) such documentation as may be submitted under subsection (d)(3).

(iii) EXTRAORDINARY CIRCUMSTANCES.—In determining whether an alien has met the requirement under clause (i)(I), the Secretary may credit the alien with not more than 12 additional months to meet the requirement under clause (i) if the alien was unable to work in agricultural employment due to—

(I) pregnancy, injury, or disease, if the alien can establish such pregnancy, disabling injury, or disease through medical records;

(II) illness, disease, or other special needs of a minor child, if the alien can establish such illness, disease, or special needs through medical records; or

(III) severe weather conditions that prevented the alien from engaging in agricultural employment for a significant period of time.

(iv) APPLICATION PERIOD.—The alien applies for adjustment of status not later than 7 years after the date of the enactment of this Act.

(v) FINE.—The alien pays a fine to the Secretary in an amount equal to $400.

(B) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS.—The Secretary may deny an alien adjustment to permanent resident status, and provide for termination of the blue card status granted such alien, if—

(i) the Secretary finds by a preponderance of the evidence that the adjustment to blue card status was the result of fraud or willful misrepresentation, as described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)); or

(ii) the alien—

(I) commits an act that makes the alien inadmissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(II) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(III) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(C) GROUNDS FOR REMOVAL.—Any alien granted blue card status who does not apply for adjustment of status under this subsection before the expiration of the application period described in subparagraph (A)(iv), or who fails to meet the other requirements of subparagraph (A) by the end of the applicable period, is deportable and may be removed under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

(D) PAYMENT OF TAXES.—

(i) IN GENERAL.—Not later than the date on which an alien's status is adjusted under this subsection, the alien shall establish the payment of any applicable Federal tax liability by establishing that—

(I) no such tax liability exists;

(II) all outstanding liabilities have been paid; or

(III) the alien has entered into an agreement for payment of all outstanding liabilities with the Internal Revenue Service.

(ii) APPLICABLE FEDERAL TAX LIABILITY.—For purposes of clause (i), the term ''applicable Federal tax liability'' means liability for Federal taxes, including penalties and interest, owed for any year during the period of employment required under paragraph (1)(A) for which the statutory period for assessment of any deficiency for such taxes has not expired.

(iii) IRS COOPERATION.—The Secretary of the Treasury shall establish rules and procedures under which the Commissioner of Internal Revenue shall provide documentation to an alien upon request to establish the payment of all taxes required by this subparagraph.

(2) SPOUSES AND MINOR CHILDREN.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall confer the status of lawful permanent resident on the spouse and minor child of an alien granted status under paragraph (1), including any individual who was a minor child on the date such alien was granted blue card status, if the spouse or minor child applies for such status, or if the principal alien includes the spouse or minor child in an application for adjustment of status to that of a lawful permanent resident.

(B) TREATMENT OF SPOUSES AND MINOR CHILDREN BEFORE ADJUSTMENT OF STATUS.—

(i) REMOVAL.—The spouse and any minor child of an alien granted blue card status may not be removed while such alien maintains such status, except as provided in subparagraph (C).

(ii) TRAVEL.—The spouse and any minor child of an alien granted blue card status may travel outside the United States in the same manner as an alien lawfully admitted for permanent residence.

(iii) EMPLOYMENT.—The spouse of an alien granted blue card status may apply to the Secretary for a work permit to authorize such spouse to engage in any lawful employment in the United States while such alien maintains blue card status.

(C) GROUNDS FOR DENIAL OF ADJUSTMENT OF STATUS AND REMOVAL.—The Secretary may deny an alien spouse or child adjustment of status under subparagraph (A) and may remove such spouse or child under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) if the spouse or child—

(i) commits an act that makes the alien spouse or child inadmissible to the United States under section 212 of such Act (8 U.S.C. 1182), except as provided under subsection (e)(2);

(ii) is convicted of a felony or 3 or more misdemeanors committed in the United States; or

(iii) is convicted of an offense, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of $500.

(d) APPLICATIONS.—

(1) TO WHOM MAY BE MADE.—The Secretary shall provide that—

(A) applications for blue card status may be filed—

(i) with the Secretary, but only if the applicant is represented by an attorney or a non-profit religious, charitable, social service, or similar organization recognized by the Board of Immigration Appeals under section 292.2 of title 8, Code of Federal Regulations; or

(ii) with a qualified designated entity (designated under paragraph (2)), but only if the applicant consents to the forwarding of the application to the Secretary; and

(B) applications for adjustment of status under subsection (c) shall be filed directly with the Secretary.

(2) DESIGNATION OF ENTITIES TO RECEIVE APPLICATIONS.—

(A) IN GENERAL.—For purposes of receiving applications under subsection (a), the Secretary—

(i) shall designate qualified farm labor organizations and associations of employers; and

(ii) may designate such other persons as the Secretary determines are qualified and have substantial experience, demonstrate competence, and have traditional long-term

involvement in the preparation and submission of applications for adjustment of status under section 209, 210, or 245 of the Immigration and Nationality Act, Public Law 89–732, Public Law 95–145, or the Immigration Reform and Control Act of 1986.

(B) REFERENCES.—Organizations, associations, and persons designated under subparagraph (A) are referred to in this title 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)(ii) but shall not forward to the Secretary applications filed with it unless the applicant has consented to such forwarding. No such entity may make a determination required by this section to be made by the Secretary. Upon the request of the alien, a qualified designated entity shall assist the alien in obtaining documentation of the work history of the alien.

(5) LIMITATION ON ACCESS TO INFORMATION.—Files and records prepared for purposes of this subsection by qualified designated entities operating under this subsection are confidential and the Secretary shall not have access to such files or records relating to an alien without the consent of the alien, except as allowed by a court order issued pursuant to paragraph (6).

(6) CONFIDENTIALITY OF INFORMATION.—

(A) IN GENERAL.—Except as otherwise provided in this subsection, neither the Secretary, nor any other official or employee of the Department, or a bureau or agency of the Department, may—

(i) use the information furnished by the applicant pursuant to an application filed under this section, the information provided to the applicant by a person designated under paragraph (2)(A), or any information provided by an employer or former employer, for any purpose other than to make a determination on the application, or for enforcement of paragraph (7);

(ii) make any publication whereby the information furnished by any particular individual can be identified; or

(iii) permit anyone other than the sworn officers and employees of the Department, or a bureau or agency of the Department, or, with respect to applications filed with a qualified designated entity, that qualified designated entity, to examine individual applications.

(B) REQUIRED DISCLOSURES.—The Secretary shall provide the information furnished under this section, or any other information derived from such furnished information, to—

(i) a duly recognized law enforcement entity in connection with a criminal investigation or prosecution, if such information is requested in writing by such entity; or

(ii) an official coroner, for purposes of affirmatively identifying a deceased individual, whether or not the death of such individual resulted from a crime.

(C) CONSTRUCTION.—

(i) IN GENERAL.—Nothing in this paragraph shall be construed to limit the use, or release, for immigration enforcement purposes or law enforcement purposes of information contained in files or records of the Department pertaining to an application filed under this section, other than information furnished by an applicant pursuant to the application, or any other information derived from the application, that is not available from any other source.

(ii) CRIMINAL CONVICTIONS.—Information concerning whether the applicant has at any time been convicted of a crime may be used or released for immigration enforcement or law enforcement purposes.

(D) CRIME.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this paragraph shall be subject to a fine in an amount not to exceed $10,000.

(7) PENALTIES FOR FALSE STATEMENTS IN APPLICATIONS.—

(A) CRIMINAL PENALTY.—Any person who—

(i) files an application for status under subsection (a) or (c) and knowingly and willfully falsifies, conceals, or covers up a material fact or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry; or

(ii) creates or supplies a false writing or document for use in making such an application,

shall be fined in accordance with title 18, United States Code, imprisoned not more than 5 years, or both.

(B) INADMISSIBILITY.—An alien who is convicted of a crime under subparagraph (A) shall be considered to be inadmissible to the United States on the ground described in section 212(a)(6)(C)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(C)(i)).

(8) ELIGIBILITY FOR LEGAL SERVICES.—Section 504(a)(11) of Public Law 104–134 (110 Stat. 1321–53 et seq.) shall not be construed to prevent a recipient of funds under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.) from providing legal assistance directly related to an application for adjustment of status under this section.

(9) APPLICATION FEES.—

(A) FEE SCHEDULE.—The Secretary shall provide for a schedule of fees that—

(i) shall be charged for the filing of applications for status under subsections (a) and (c); and

(ii) may be charged by qualified designated entities to help defray the costs of services provided to such applicants.

(B) PROHIBITION ON EXCESS FEES BY QUALIFIED DESIGNATED ENTITIES.—A qualified designated entity may not charge any fee in excess of, or in addition to, the fees authorized under subparagraph (A)(ii) for services provided to applicants.

(C) DISPOSITION OF FEES.—

(i) IN GENERAL.—There is established in the general fund of the Treasury a separate account, which shall be known as the ''Agricultural Worker Immigration Status Adjustment Account''. Notwithstanding any other provision of law, there shall be deposited as offsetting receipts into the account all fees collected under subparagraph (A)(i).

(ii) USE OF FEES FOR APPLICATION PROCESSING.—Amounts deposited in the ''Agricultural Worker Immigration Status Adjustment Account'' shall remain available to the Secretary until expended for processing applications for status under subsections (a) and (c).

(e) WAIVER OF NUMERICAL LIMITATIONS AND CERTAIN GROUNDS FOR INADMISSIBILITY.—

(1) NUMERICAL LIMITATIONS DO NOT APPLY.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act (8 U.S.C. 1151 and 1152) shall not apply to the adjustment of aliens to lawful permanent resident status under this section.

(2) WAIVER OF CERTAIN GROUNDS OF INADMISSIBILITY.—In the determination of an alien's eligibility for status under subsection (a)(1)(C) or an alien's eligibility for adjustment of status under subsection (c)(1)(B)(ii)(I), the following rules shall apply:

(A) GROUNDS OF EXCLUSION NOT APPLICABLE.—The provisions of paragraphs (5), (6)(A), (7), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(B) WAIVER OF OTHER GROUNDS.—

(i) IN GENERAL.—Except as provided in clause (ii), the Secretary may waive any other provision of such section 212(a) in the case of individual aliens for humanitarian purposes, to ensure family unity, or if otherwise in the public interest.

(ii) GROUNDS THAT MAY NOT BE WAIVED.—Paragraphs (2)(A), (2)(B), (2)(C), (3), and (4) of such section 212(a) may not be waived by the Secretary under clause (i).

(iii) CONSTRUCTION.—Nothing in this subparagraph shall be construed as affecting the authority of the Secretary other than under this subparagraph to waive provisions of such section 212(a).

(C) SPECIAL RULE FOR DETERMINATION OF PUBLIC CHARGE.—An alien is not ineligible for status under this section by reason of a ground of inadmissibility under section 212(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(4)) if the alien demonstrates a history of employment in the United States evidencing self-support without reliance on public cash assistance.

(f) TEMPORARY STAY OF REMOVAL AND WORK AUTHORIZATION FOR CERTAIN APPLICANTS.—

(1) BEFORE APPLICATION PERIOD.—Effective on the date of enactment of this Act, the Secretary shall provide that, in the case of an alien who is apprehended before the beginning of the application period described in subsection (a)(1)(B) and who can establish a nonfrivolous case of eligibility for blue card status (but for the fact that the alien may not apply for such status until the beginning of such period), until the alien has had the opportunity during the first 30 days of the application period to complete the filing of an application for blue card status, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(2) DURING APPLICATION PERIOD.—The Secretary shall provide that, in the case of an alien who presents a nonfrivolous application for blue card status during the application period described in subsection (a)(1)(B),

including an alien who files such an application within 30 days of the alien's apprehension, and until a final determination on the application has been made in accordance with this section, the alien—

(A) may not be removed; and

(B) shall be granted authorization to engage in employment in the United States and be provided an ''employment authorized'' endorsement or other appropriate work permit for such purpose.

(g) ADMINISTRATIVE AND JUDICIAL REVIEW.—

(1) IN GENERAL.—There shall be no administrative or judicial review of a determination respecting an application for status under subsection (a) or (c) except in accordance with this subsection.

(2) ADMINISTRATIVE REVIEW.—

(A) SINGLE LEVEL OF ADMINISTRATIVE APPELLATE REVIEW.—The Secretary shall establish an appellate authority to provide for a single level of administrative appellate review of such a determination.

(B) STANDARD FOR REVIEW.—Such administrative appellate review shall be based solely upon the administrative record established at the time of the determination on the application and upon such additional or newly discovered evidence as may not have been available at the time of the determination.

(3) JUDICIAL REVIEW.—

(A) LIMITATION TO REVIEW OF REMOVAL.—There shall be judicial review of such a determination only in the judicial review of an order of removal under section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(B) STANDARD FOR JUDICIAL REVIEW.—Such judicial review shall be based solely upon the administrative record established at the time of the review by the appellate authority and the findings of fact and determinations contained in such record shall be conclusive unless the applicant can establish abuse of discretion or that the findings are directly contrary to clear and convincing facts contained in the record considered as a whole.

(h) DISSEMINATION OF INFORMATION ON ADJUSTMENT PROGRAM.—Beginning not later than the first day of the application period described in subsection (a)(1)(B), the Secretary, in cooperation with qualified designated entities, shall broadly disseminate information respecting the benefits that aliens may receive under this section and the requirements to be satisfied to obtain such benefits.

(i) REGULATIONS.—The Secretary shall issue regulations to implement this section not later than the first day of the seventh month that begins after the date of enactment of this Act.

(j) EFFECTIVE DATE.—This section shall take effect on the date that regulations are issued implementing this section on an interim or other basis.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to implement this section, including any sums needed for costs associated with the initiation of such implementation, for fiscal years 2007 and 2008.

**SEC. 212. CORRECTION OF SOCIAL SECURITY RECORDS.**

(a) IN GENERAL.—Section 208(e)(1) of the Social Security Act (42 U.S.C. 408(e)(1)) is amended—

(1) in subparagraph (B)(ii), by striking ''or'' at the end;

(2) in subparagraph (C), by inserting ''or'' at the end;

(3) by inserting after subparagraph (C) the following:

''(D) who is granted blue card status under the Agricultural Job Opportunity, Benefits, and Security Act of 2006,''; and

(4) by striking ''1990.'' and inserting ''1990, or in the case of an alien described in subparagraph (D), if such conduct is alleged to have occurred before the date on which the alien was granted blue card status.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the seventh month that begins after the date of the enactment of this Act.

**Subtitle B—Reform of H–2A Worker Program**

**SEC. 221. AMENDMENT TO THE IMMIGRATION AND NATIONALITY ACT.**

(a) IN GENERAL.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by striking section 218 and inserting the following:

**''SEC. 218. H–2A EMPLOYER APPLICATIONS.**

''(a) APPLICATIONS TO THE SECRETARY OF LABOR.—

''(1) IN GENERAL.—No alien may be admitted to the United States as an H–2A worker, or otherwise provided status as an H–2A worker, unless the employer has filed with the Secretary of Labor an application containing—

''(A) the assurances described in subsection (b);

''(B) a description of the nature and location of the work to be performed;

''(C) the anticipated period (expected beginning and ending dates) for which the workers will be needed; and

''(D) the number of job opportunities in which the employer seeks to employ the workers.

''(2) ACCOMPANIED BY JOB OFFER.—Each application filed under paragraph (1) shall be accompanied by a copy of the job offer describing the wages and other terms and conditions of employment and the bona fide occupational qualifications that shall be possessed by a worker to be employed in the job opportunity in question.

''(b) ASSURANCES FOR INCLUSION IN APPLICATIONS.—The assurances referred to in subsection (a)(1) are the following:

''(1) JOB OPPORTUNITIES COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is covered under a collective bargaining agreement:

''(A) UNION CONTRACT DESCRIBED.—The job opportunity is covered by a union contract which was negotiated at arm's length between a bona fide union and the employer.

''(B) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(C) NOTIFICATION OF BARGAINING REPRESENTATIVES.—The employer, at the time of filing the application, has provided notice of the filing under this paragraph to the bargaining representative of the employer's employees in the occupational classification at the place or places of employment for which aliens are sought.

''(D) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(E) OFFERS TO UNITED STATES WORKERS.—The employer has offered or will offer the job to any eligible United States worker who applies and is equally or better qualified for the job for which the nonimmigrant is, or the nonimmigrants are, sought and who will be available at the time and place of need.

''(F) PROVISION OF INSURANCE.—If the job opportunity is not covered by the State workers' compensation law, the employer will provide, at no cost to the worker, insurance covering injury and disease arising out of, and in the course of, the worker's employment which will provide benefits at least equal to those provided under the State's workers' compensation law for comparable employment.

''(2) JOB OPPORTUNITIES NOT COVERED BY COLLECTIVE BARGAINING AGREEMENTS.—With respect to a job opportunity that is not covered under a collective bargaining agreement:

''(A) STRIKE OR LOCKOUT.—The specific job opportunity for which the employer is requesting an H–2A worker is not vacant because the former occupant is on strike or being locked out in the course of a labor dispute.

''(B) TEMPORARY OR SEASONAL JOB OPPORTUNITIES.—The job opportunity is temporary or seasonal.

''(C) BENEFIT, WAGE, AND WORKING CONDITIONS.—The employer will provide, at a minimum, the benefits, wages, and working conditions required by section 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 and 218B.

''(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

**''SEC. 218A. H–2A EMPLOYMENT REQUIREMENTS.**

''(a) PREFERENTIAL TREATMENT OF ALIENS PROHIBITED.—Employers seeking to hire United States workers shall offer the United States workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H–2A workers. Conversely, no job offer may impose on United States workers any restrictions or obligations which will not be imposed on the employer's H–2A workers.

''(b) MINIMUM BENEFITS, WAGES, AND WORKING CONDITIONS.—Except in cases where higher benefits, wages, or working conditions are required by the provisions of subsection (a), in order to protect similarly employed United States workers from adverse effects with respect to benefits, wages, and working conditions, every job offer which shall accompany an application under section 218(b)(2) shall include each of the following benefit, wage, and working condition provisions:

''(1) REQUIREMENT TO PROVIDE HOUSING OR A HOUSING ALLOWANCE.—

''(A) IN GENERAL.—An employer applying under section 218(a) for H–2A workers shall offer to provide housing at no cost to all workers in job opportunities for which the employer has applied under that section and to all other workers in the same occupation at the place of employment, whose place of residence is beyond normal commuting distance.

''(B) TYPE OF HOUSING.—In complying with subparagraph (A), an employer may, at the employer's election, provide housing that meets applicable Federal standards for temporary labor camps or secure housing that meets applicable local standards for rental or public accommodation housing or other substantially similar class of habitation, or in the absence of applicable local standards, State standards for rental or public accommodation housing or other substantially similar class of habitation. In the absence of applicable local or State standards, Federal temporary labor camp standards shall apply.

''(C) FAMILY HOUSING.—If it is the prevailing practice in the occupation and area of intended employment to provide family housing, family housing shall be provided to workers with families who request it.

''(D) WORKERS ENGAGED IN THE RANGE PRODUCTION OF LIVESTOCK.—The Secretary of Labor shall issue regulations that address the specific requirements for the provision of housing to workers engaged in the range production of livestock.

''(E) LIMITATION.—Nothing in this paragraph shall be construed to require an employer to provide or secure housing for persons who were not entitled to such housing under the temporary labor certification regulations in effect on June 1, 1986.

''(F) CHARGES FOR HOUSING.—

''(i) CHARGES FOR PUBLIC HOUSING.—If public housing provided for migrant agricultural workers under the auspices of a local, county, or State government is secured by an employer, and use of the public housing unit normally requires charges from migrant workers, such charges shall be paid by the employer directly to the appropriate individual or entity affiliated with the housing's management.

''(ii) DEPOSIT CHARGES.—Charges in the form of deposits for bedding or other similar

incidentals related to housing shall not be levied upon workers by employers who provide housing for their workers. An employer may require a worker found to have been responsible for damage to such housing which is not the result of normal wear and tear related to habitation to reimburse the employer for the reasonable cost of repair of such damage.

''(G) HOUSING ALLOWANCE AS ALTERNATIVE.—

''(i) IN GENERAL.—If the requirement under clause (ii) is satisfied, the employer may provide a reasonable housing allowance instead of offering housing under subparagraph (A). Upon the request of a worker seeking assistance in locating housing, the employer shall make a good faith effort to assist the worker in identifying and locating housing in the area of intended employment. An employer who offers a housing allowance to a worker, or assists a worker in locating housing which the worker occupies, pursuant to this clause shall not be deemed a housing provider under section 203 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1823) solely by virtue of providing such housing allowance. No housing allowance may be used for housing which is owned or controlled by the employer.

''(ii) CERTIFICATION.—The requirement of this clause is satisfied if the Governor of the State certifies to the Secretary of Labor that there is adequate housing available in the area of intended employment for migrant farm workers, and H–2A workers, who are seeking temporary housing while employed at farm work. Such certification shall expire after 3 years unless renewed by the Governor of the State.

''(iii) AMOUNT OF ALLOWANCE.—

''(I) NONMETROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this subparagraph is a nonmetropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for nonmetropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2 bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(II) METROPOLITAN COUNTIES.—If the place of employment of the workers provided an allowance under this paragraph is in a metropolitan county, the amount of the housing allowance under this subparagraph shall be equal to the statewide average fair market rental for existing housing for metropolitan counties for the State, as established by the Secretary of Housing and Urban Development pursuant to section 8(c) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)), based on a 2-bedroom dwelling unit and an assumption of 2 persons per bedroom.

''(2) REIMBURSEMENT OF TRANSPORTATION.—

''(A) TO PLACE OF EMPLOYMENT.—A worker who completes 50 percent of the period of employment of the job opportunity for which the worker was hired shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place from which the worker came to work for the employer (or place of last employment, if the worker traveled from such place) to the place of employment.

''(B) FROM PLACE OF EMPLOYMENT.—A worker who completes the period of employment for the job opportunity involved shall be reimbursed by the employer for the cost of the worker's transportation and subsistence from the place of employment to the place from which the worker, disregarding intervening employment, came to work for the employer, or to the place of next employment, if the worker has contracted with a subsequent employer who has not agreed to provide or pay for the worker's transportation and subsistence to such subsequent employer's place of employment.

''(C) LIMITATION.—

''(i) AMOUNT OF REIMBURSEMENT.—Except as provided in clause (ii), the amount of reimbursement provided under subparagraph (A) or (B) to a worker or alien shall not exceed the lesser of—

''(I) the actual cost to the worker or alien of the transportation and subsistence involved; or

''(II) the most economical and reasonable common carrier transportation charges and subsistence costs for the distance involved.

''(ii) DISTANCE TRAVELED.—No reimbursement under subparagraph (A) or (B) shall be required if the distance traveled is 100 miles or less, or the worker is not residing in employer-provided housing or housing secured through an allowance as provided in paragraph (1)(G).

''(D) EARLY TERMINATION.—If the worker is laid off or employment is terminated for contract impossibility (as described in paragraph (4)(D)) before the anticipated ending date of employment, the employer shall provide the transportation and subsistence required by subparagraph (B) and, notwithstanding whether the worker has completed 50 percent of the period of employment, shall provide the transportation reimbursement required by subparagraph (A).

''(E) TRANSPORTATION BETWEEN LIVING QUARTERS AND WORK SITE.—The employer shall provide transportation between the worker's living quarters and the employer's work site without cost to the worker, and such transportation will be in accordance with applicable laws and regulations.

''(3) REQUIRED WAGES.—

''(A) IN GENERAL.—An employer applying for workers under section 218(a) shall offer to pay, and shall pay, all workers in the occupation for which the employer has applied for workers, not less (and is not required to pay more) than the greater of the prevailing wage in the occupation in the area of intended employment or the adverse effect wage rate. No worker shall be paid less than the greater of the hourly wage prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State minimum wage.

''(B) LIMITATION.—Effective on the date of the enactment of the Agricultural Job Opportunities, Benefits, and Security Act of 2006 and continuing for 3 years thereafter, no adverse effect wage rate for a State may be more than the adverse effect wage rate for that State in effect on January 1, 2003, as established by section 655.107 of title 20, Code of Federal Regulations.

''(C) REQUIRED WAGES AFTER 3-YEAR FREEZE.—

''(i) FIRST ADJUSTMENT.—If Congress does not set a new wage standard applicable to this section before the first March 1 that is not less than 3 years after the date of enactment of this section, the adverse effect wage rate for each State beginning on such March 1 shall be the wage rate that would have resulted if the adverse effect wage rate in effect on January 1, 2003, had been annually adjusted, beginning on March 1, 2006, by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(ii) SUBSEQUENT ANNUAL ADJUSTMENTS.—Beginning on the first March 1 that is not less than 4 years after the date of enactment of this section, and each March 1 thereafter, the adverse effect wage rate then in effect for each State shall be adjusted by the lesser of—

''(I) the 12 month percentage change in the Consumer Price Index for All Urban Consumers between December of the second preceding year and December of the preceding year; and

''(II) 4 percent.

''(D) DEDUCTIONS.—The employer shall make only those deductions from the worker's wages that are authorized by law or are reasonable and customary in the occupation and area of employment. The job offer shall specify all deductions not required by law which the employer will make from the worker's wages.

''(E) FREQUENCY OF PAY.—The employer shall pay the worker not less frequently than twice monthly, or in accordance with the prevailing practice in the area of employment, whichever is more frequent.

''(F) HOURS AND EARNINGS STATEMENTS.—The employer shall furnish to the worker, on or before each payday, in 1 or more written statements—

''(i) the worker's total earnings for the pay period;

''(ii) the worker's hourly rate of pay, piece rate of pay, or both;

''(iii) the hours of employment which have been offered to the worker (broken out by hours offered in accordance with and over and above the three-quarters guarantee described in paragraph (4);

''(iv) the hours actually worked by the worker;

''(v) an itemization of the deductions made from the worker's wages; and

''(vi) if piece rates of pay are used, the units produced daily.

''(G) REPORT ON WAGE PROTECTIONS.—Not later than December 31, 2008, the Comptroller General of the United States shall prepare and transmit to the Secretary of Labor, the Committee on the Judiciary of the Senate, and Committee on the Judiciary of the House of Representatives, a report that addresses—

''(i) whether the employment of H–2A or unauthorized aliens in the United States agricultural work force has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(ii) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(iii) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(iv) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage; and

''(v) recommendations for future wage protection under this section.

''(H) COMMISSION ON WAGE STANDARDS.—

''(i) ESTABLISHMENT.—There is established the Commission on Agricultural Wage Standards under the H–2A program (in this subparagraph referred to as the 'Commission').

''(ii) COMPOSITION.—The Commission shall consist of 10 members as follows:

''(I) 4 representatives of agricultural employers and 1 representative of the Department of Agriculture, each appointed by the Secretary of Agriculture.

''(II) 4 representatives of agricultural workers and 1 representative of the Department of Labor, each appointed by the Secretary of Labor.

''(iii) FUNCTIONS.—The Commission shall conduct a study that shall address—

''(I) whether the employment of H–2A or unauthorized aliens in the United States agricultural workforce has depressed United States farm worker wages below the levels that would otherwise have prevailed if alien farm workers had not been employed in the United States;

''(II) whether an adverse effect wage rate is necessary to prevent wages of United States farm workers in occupations in which H–2A workers are employed from falling below the wage levels that would have prevailed in the absence of the employment of H–2A workers in those occupations;

''(III) whether alternative wage standards, such as a prevailing wage standard, would be sufficient to prevent wages in occupations in which H–2A workers are employed from falling below the wage level that would have prevailed in the absence of H–2A employment;

''(IV) whether any changes are warranted in the current methodologies for calculating the adverse effect wage rate and the prevailing wage rate; and

''(V) recommendations for future wage protection under this section.

''(iv) FINAL REPORT.—Not later than December 31, 2008, the Commission shall submit a report to the Congress setting forth the findings of the study conducted under clause (iii).

''(v) TERMINATION DATE.—The Commission shall terminate upon submitting its final report.

''(4) GUARANTEE OF EMPLOYMENT.—

''(A) OFFER TO WORKER.—The employer shall guarantee to offer the worker employment for the hourly equivalent of at least three-fourths of the work days of the total period of employment, beginning with the first work day after the arrival of the worker at the place of employment and ending on the expiration date specified in the job offer. For purposes of this subparagraph, the hourly equivalent means the number of hours in the work days as stated in the job offer and shall exclude the worker's Sabbath and Federal holidays. If the employer affords the United States or H–2A worker less employment than that required under this paragraph, the employer shall pay such worker the amount which the worker would have earned had the worker, in fact, worked for the guaranteed number of hours.

''(B) FAILURE TO WORK.—Any hours which the worker fails to work, up to a maximum of the number of hours specified in the job offer for a work day, when the worker has been offered an opportunity to do so, and all hours of work actually performed (including voluntary work in excess of the number of hours specified in the job offer in a work day, on the worker's Sabbath, or on Federal holidays) may be counted by the employer in calculating whether the period of guaranteed employment has been met.

''(C) ABANDONMENT OF EMPLOYMENT, TERMINATION FOR CAUSE.—If the worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, the worker is not entitled to the 'three-fourths guarantee' described in subparagraph (A).

''(D) CONTRACT IMPOSSIBILITY.—If, before the expiration of the period of employment specified in the job offer, the services of the worker are no longer required for reasons beyond the control of the employer due to any form of natural disaster, including 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.

**''SEC. 218B. PROCEDURE FOR ADMISSION AND EXTENSION OF STAY OF H–2A WORKERS.**

''(a) PETITIONING FOR ADMISSION.—An employer, or an association acting as an agent or joint employer for its members, that seeks the admission into the United States of an H–2A worker may file a petition with the Secretary. The petition shall be accompanied by an accepted and currently valid certification provided by the Secretary of Labor under section 218(e)(2)(B) covering the petitioner.

''(b) EXPEDITED ADJUDICATION BY THE SECRETARY.—The Secretary shall establish a procedure for expedited adjudication of petitions filed under subsection (a) and within 7 working days shall, by fax, cable, or other means assuring expedited delivery, transmit a copy of notice of action on the petition to the petitioner and, in the case of approved petitions, to the appropriate immigration officer at the port of entry or United States consulate (as the case may be) where the petitioner has indicated that the alien beneficiary (or beneficiaries) will apply for a visa or admission to the United States.

''(c) CRITERIA FOR ADMISSIBILITY.—

''(1) IN GENERAL.—An H–2A worker shall be considered admissible to the United States if the alien is otherwise admissible under this section, section 218, and section 218A, and the alien is not ineligible under paragraph (2).

''(2) DISQUALIFICATION.—An alien shall be considered inadmissible to the United States and ineligible for nonimmigrant status under section 101(a)(15)(H)(ii)(a) if the alien has, at any time during the past 5 years—

''(A) violated a material provision of this section, including the requirement to promptly depart the United States when the alien's authorized period of admission under this section has expired; or

''(B) otherwise violated a term or condition of admission into the United States as a nonimmigrant, including overstaying the period of authorized admission as such a nonimmigrant.

''(3) WAIVER OF INELIGIBILITY FOR UNLAWFUL PRESENCE.—

''(A) IN GENERAL.—An alien who has not previously been admitted into the United States pursuant to this section, and who is otherwise eligible for admission in accordance with paragraphs (1) and (2), shall not be deemed inadmissible by virtue of section 212(a)(9)(B). If an alien described in the preceding sentence is present in the United States, the alien may apply from abroad for H–2A status, but may not be granted that status in the United States.

''(B) MAINTENANCE OF WAIVER.—An alien provided an initial waiver of ineligibility pursuant to subparagraph (A) shall remain eligible for such waiver unless the alien violates the terms of this section or again becomes ineligible under section 212(a)(9)(B) by virtue of unlawful presence in the United States after the date of the initial waiver of ineligibility pursuant to subparagraph (A).

''(d) PERIOD OF ADMISSION.—

''(1) IN GENERAL.—The alien shall be admitted for the period of employment in the application certified by the Secretary of Labor pursuant to section 218(e)(2)(B), not to exceed 10 months, supplemented by a period of not more than 1 week before the beginning of the period of employment for the purpose of travel to the work site and a period of 14 days following the period of employment for the purpose of departure or extension based on a subsequent offer of employment, except that—

''(A) the alien is not authorized to be employed during such 14-day period except in the employment for which the alien was previously authorized; and

''(B) the total period of employment, including such 14-day period, may not exceed 10 months.

''(2) CONSTRUCTION.—Nothing in this subsection shall limit the authority of the Secretary to extend the stay of the alien under any other provision of this Act.

''(e) ABANDONMENT OF EMPLOYMENT.—

''(1) IN GENERAL.—An alien admitted or provided status under section 101(a)(15)(H)(ii)(a) who abandons the employment which was the basis for such admission or status shall be considered to have failed to maintain nonimmigrant status as an H–2A worker and shall depart the United States or be subject to removal under section 237(a)(1)(C)(i).

''(2) REPORT BY EMPLOYER.—The employer, or association acting as agent for the employer, shall notify the Secretary not later than 7 days after an H–2A worker prematurely abandons employment.

''(3) REMOVAL BY THE SECRETARY.—The Secretary shall promptly remove from the United States any H–2A worker who violates any term or condition of the worker's nonimmigrant status.

''(4) VOLUNTARY TERMINATION.—Notwithstanding paragraph (1), an alien may voluntarily terminate his or her employment if the alien promptly departs the United States upon termination of such employment.

''(f) REPLACEMENT OF ALIEN.—

''(1) IN GENERAL.—Upon presentation of the notice to the Secretary required by subsection (e)(2), the Secretary of State shall promptly issue a visa to, and the Secretary shall admit into the United States, an eligible alien designated by the employer to replace an H–2A worker—

''(A) who abandons or prematurely terminates employment; or

''(B) whose employment is terminated after a United States worker is employed pursuant to section 218(b)(2)(H)(iii), if the United States worker voluntarily departs before the end of the period of intended employment or if the employment termination is for a lawful job-related reason.

''(2) CONSTRUCTION.—Nothing in this subsection is intended to limit any preference required to be accorded United States workers under any other provision of this Act.

''(g) IDENTIFICATION DOCUMENT.—

''(1) IN GENERAL.—Each alien authorized to be admitted under section 101(a)(15)(H)(ii)(a) shall be provided an identification and employment eligibility document to verify eligibility for employment in the United States and verify such person's proper identity.

''(2) REQUIREMENTS.—No identification and employment eligibility document may be issued which does not meet the following requirements:

''(A) The document shall be capable of reliably determining whether—

''(i) the individual with the identification and employment eligibility document whose eligibility is being verified is in fact eligible for employment;

''(ii) the individual whose eligibility is being verified is claiming the identity of another person; and

''(iii) the individual whose eligibility is being verified is authorized to be admitted into, and employed in, the United States as an H–2A worker.

''(B) The document shall be in a form that is resistant to counterfeiting and to tampering.

''(C) The document shall—

''(i) be compatible with other databases of the Secretary for the purpose of excluding aliens from benefits for which they are not eligible and determining whether the alien is unlawfully present in the United States; and

''(ii) be compatible with law enforcement databases to determine if the alien has been convicted of criminal offenses.

''(h) EXTENSION OF STAY OF H–2A ALIENS IN THE UNITED STATES.—

''(1) EXTENSION OF STAY.—If an employer seeks approval to employ an H–2A alien who is lawfully present in the United States, the petition filed by the employer or an association pursuant to subsection (a), shall request an extension of the alien's stay and a change in the alien's employment.

''(2) LIMITATION ON FILING A PETITION FOR EXTENSION OF STAY.—A petition may not be filed for an extension of an alien's stay—

''(A) for a period of more than 10 months; or

''(B) to a date that is more than 3 years after the date of the alien's last admission to the United States under this section.

''(3) WORK AUTHORIZATION UPON FILING A PETITION FOR EXTENSION OF STAY.—

''(A) IN GENERAL.—An alien who is lawfully present in the United States may commence the employment described in a petition under paragraph (1) on the date on which the petition is filed.

''(B) DEFINITION.—For purposes of subparagraph (A), the term 'file' means sending the petition by certified mail via the United States Postal Service, return receipt requested, or delivered by guaranteed commercial delivery which will provide the employer with a documented acknowledgment of the date of receipt of the petition.

''(C) HANDLING OF PETITION.—The employer shall provide a copy of the employer's petition to the alien, who shall keep the petition with the alien's identification and employment eligibility document as evidence that the petition has been filed and that the alien is authorized to work in the United States.

''(D) APPROVAL OF PETITION.—Upon approval of a petition for an extension of stay or change in the alien's authorized employment, the Secretary shall provide a new or updated employment eligibility document to the alien indicating the new validity date, after which the alien is not required to retain a copy of the petition.

''(4) LIMITATION ON EMPLOYMENT AUTHORIZATION OF ALIENS WITHOUT VALID IDENTIFICATION AND EMPLOYMENT ELIGIBILITY DOCUMENT.—An expired identification and employment eligibility document, together with a copy of a petition for extension of stay or change in the alien's authorized employment that complies with the requirements of paragraph (1), shall constitute a valid work authorization document for a period of not more than 60 days beginning on the date on which such petition is filed, after which time only a currently valid identification and employment eligibility document shall be acceptable.

''(5) LIMITATION ON AN INDIVIDUAL'S STAY IN STATUS.—

''(A) MAXIMUM PERIOD.—The maximum continuous period of authorized status as an H–2A worker (including any extensions) is 3 years.

''(B) REQUIREMENT TO REMAIN OUTSIDE THE UNITED STATES.—

''(i) IN GENERAL.—Subject to clause (ii), in the case of an alien outside the United States whose period of authorized status as an H–2A worker (including any extensions) has expired, the alien may not again apply for admission to the United States as an H–2A worker unless the alien has remained outside the United States for a continuous period equal to at least ⅙ the duration of the alien's previous period of authorized status as an H–2A worker (including any extensions).

''(ii) EXCEPTION.—Clause (i) shall not apply in the case of an alien if the alien's period of authorized status as an H–2A worker (including any extensions) was for a period of not more than 10 months and such alien has been outside the United States for at least 2 months during the 12 months preceding the date the alien again is applying for admission to the United States as an H–2A worker.

''(i) SPECIAL RULES FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—Notwithstanding any provision of the Agricultural Job Opportunities, Benefits, and Security Act of 2006, an alien admitted under section 101(a)(15)(H)(ii)(a) for employment as a sheepherder, goat herder, or dairy worker—

''(1) may be admitted for an initial period of 12 months;

''(2) subject to subsection (j)(5), may have such initial period of admission extended for a period of up to 3 years; and

''(3) shall not be subject to the requirements of subsection (h)(5) (relating to periods of absence from the United States).

''(j) ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS FOR ALIENS EMPLOYED AS SHEEPHERDERS, GOAT HERDERS, OR DAIRY WORKERS.—

''(1) ELIGIBLE ALIEN.—For purposes of this subsection, the term 'eligible alien' means an alien—

''(A) having nonimmigrant status under section 101(a)(15)(H)(ii)(a) based on employment as a sheepherder, goat herder, or dairy worker;

''(B) who has maintained such nonimmigrant status in the United States for a

cumulative total of 36 months (excluding any period of absence from the United States); and

''(C) who is seeking to receive an immigrant visa under section 203(b)(3)(A)(iii).

''(2) CLASSIFICATION PETITION.—In the case of an eligible alien, the petition under section 204 for classification under section 203(b)(3)(A)(iii) may be filed by—

''(A) the alien's employer on behalf of an eligible alien; or

''(B) the eligible alien.

''(3) NO LABOR CERTIFICATION REQUIRED.—Notwithstanding section 203(b)((3)(C), no determination under section 212(a)(5)(A) is required with respect to an immigrant visa described in paragraph (1)(C) for an eligible alien.

''(4) EFFECT OF PETITION.—The filing of a petition described in paragraph (2) or an application for adjustment of status based on the approval of such a petition, shall not constitute evidence of an alien's ineligibility for nonimmigrant status under section 101(a)(15)(H)(ii)(a).

''(5) EXTENSION OF STAY.—The Secretary of Homeland Security shall extend the stay of an eligible alien having a pending or approved classification petition described in paragraph (2) in 1-year increments until a final determination is made on the alien's eligibility for adjustment of status to that of an alien lawfully admitted for permanent residence.

''(6) CONSTRUCTION.—Nothing in this subsection shall be construed to prevent an eligible alien from seeking adjustment of status in accordance with any other provision of law.

**''SEC. 218C. WORKER PROTECTIONS AND LABOR STANDARDS ENFORCEMENT.**

''(a) ENFORCEMENT AUTHORITY.—

''(1) INVESTIGATION OF COMPLAINTS.—

''(A) AGGRIEVED PERSON OR THIRD-PARTY COMPLAINTS.—The Secretary of Labor shall establish a process for the receipt, investigation, and disposition of complaints respecting a petitioner's failure to meet a condition specified in section 218(b), or an employer's misrepresentation of material facts in an application under section 218(a). Complaints may be filed by any aggrieved person or organization (including bargaining representatives). No investigation or hearing shall be conducted on a complaint concerning such a failure or misrepresentation unless the complaint was filed not later than 12 months after the date of the failure, or misrepresentation, respectively. The Secretary of Labor shall conduct an investigation under this subparagraph if there is reasonable cause to believe that such a failure or misrepresentation has occurred.

''(B) DETERMINATION ON COMPLAINT.—Under such process, the Secretary of Labor shall provide, within 30 days after the date such a complaint is filed, for a determination as to whether or not a reasonable basis exists to make a finding described in subparagraph (C), (D), (E), or (G). 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 an H–2A employer or any person reached through the mediation process required under subsection (c)(1) shall preclude any right of action arising out of the same facts between the parties in any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(10) SETTLEMENTS.—Any settlement by the Secretary of Labor with an H–2A employer on behalf of an H–2A worker of a complaint filed with the Secretary of Labor under this section or any finding by the Secretary of Labor under subsection (a)(1)(B) shall preclude any right of action arising out of the same facts between the parties under any Federal or State court or administrative proceeding, unless specifically provided otherwise in the settlement agreement.

''(d) DISCRIMINATION PROHIBITED.—

''(1) IN GENERAL.—It is a violation of this subsection for any person who has filed an application under section 218(a), to intimidate, threaten, restrain, coerce, blacklist, discharge, or in any other manner discriminate against an employee (which term, for purposes of this subsection, includes a former employee and an applicant for employment) because the employee has disclosed information to the employer, or to any other person, that the employee reasonably believes evidences a violation of section 218 or 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.

**''SEC. 218D. DEFINITIONS.**

''For purposes of this section and section 218, 218A, 218B, and 218C:

''(1) AGRICULTURAL EMPLOYMENT.—The term 'agricultural employment' means any service or activity that is considered to be agricultural under section 3(f) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(f)) or agricultural labor under section 3121(g) of the Internal Revenue Code of 1986 (26 U.S.C. 3121(g)). For purposes of this paragraph, agricultural employment includes employment under section 101(a)(15)(H)(ii)(a).

''(2) BONA FIDE UNION.—The term 'bona fide union' means any organization in which employees participate and which exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other terms and conditions of work for agricultural employees. Such term does not include an organization formed, created, administered, supported, dominated, financed, or controlled by an employer or employer association or its agents or representatives.

''(3) DISPLACE.—The term 'displace', in the case of an application with respect to 1 or more H–2A workers by an employer, means laying off a United States worker from a job for which the H–2A worker or workers is or are sought.

''(4) ELIGIBLE.—The term 'eligible', when used with respect to an individual, means an individual who is not an unauthorized alien (as defined in section 274A).

''(5) EMPLOYER.—The term 'employer' means any person or entity, including any farm labor contractor and any agricultural association, that employs workers in agricultural employment.

''(6) H–2A EMPLOYER.—The term 'H–2A employer' means an employer who seeks to hire 1 or more nonimmigrant aliens described in section 101(a)(15)(H)(ii)(a).

''(7) H–2A WORKER.—The term 'H–2A worker' means a nonimmigrant described in section 101(a)(15)(H)(ii)(a).

''(8) JOB OPPORTUNITY.—The term 'job opportunity' means a job opening for temporary full-time employment at a place in the United States to which United States workers can be referred.

''(9) LAYS OFF.—

''(A) IN GENERAL.—The term 'lays off', with respect to a worker—

''(i) means to cause the worker's loss of employment, other than through a discharge for inadequate performance, violation of workplace rules, cause, voluntary departure, voluntary retirement, contract impossibility (as described in section 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. 231. 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 title. Such fees shall be the only fees chargeable to employers for services provided under this title.

(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 amended by section 221 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 title, 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 amended and added, respectively by section 221 of this Act, and the provisions of this title.

**SEC. 232. 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, 218C, and 218D of the Immigration and Nationality Act, as added by section 221 of this Act, shall take effect on the effective date of section 221 and shall be issued not later than 1 year after the date of enactment of this Act.

**SEC. 233. REPORTS TO CONGRESS.**

(a) ANNUAL REPORT.—Not later than September 30 of each year, the Secretary shall submit a report to Congress that identifies, for the previous year—

(1) the number of job opportunities approved for employment of aliens admitted under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(a)), and the number of workers actually admitted, by State and by occupation;

(2) the number of such aliens reported to have abandoned employment pursuant to subsection 218B(e)(2) of such Act;

(3) the number of such aliens who departed the United States within the period specified in subsection 218B(d) of such Act;

(4) the number of aliens who applied for adjustment of status pursuant to section 211(a);

(5) the number of such aliens whose status was adjusted under section 211(a);

(6) the number of aliens who applied for permanent residence pursuant to section 211(c); and

(7) the number of such aliens who were approved for permanent residence pursuant section 211(c).

(b) IMPLEMENTATION REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prepare and submit to Congress a report that describes the measures being taken and the progress made in implementing this title.

**SEC. 234. EFFECTIVE DATE.**

Except as otherwise provided, sections 221 and 231 shall take effect 1 year after the date of the enactment of this Act.

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**SA 5023.** Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

On page 5, between lines 8 and 9, insert the following:

''(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary to provide fencing and install additional physical barriers, roads, lighting, cameras, and sensors in a location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.''.

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**SA 5024.** Mr. MCCONNELL (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, and Ms. SNOWE)) proposed an amendment to the bill S. 3525, to reauthorize the safe and stable families program, and for other purposes; as follows:

In lieu of the language inserted by the House amendment, insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Child and Family Services Improvement Act of 2006''.

**SEC. 2. FINDINGS.**

The Congress finds as follows:

(1) For Federal fiscal year 2004, child protective services (CPS) staff nationwide reported investigating or assessing an estimated 3,000,000 allegations of child maltreatment, and determined that 872,000 children had been abused or neglected by their parents or other caregivers.

(2) Combined, the Child Welfare Services (CWS) and Promoting Safe and Stable Families (PSSF) programs provide States about $700,000,000 per year, the largest source of targeted Federal funding in the child protection system for services to ensure that children are not abused or neglected and, whenever possible, help children remain safely with their families.

(3) A 2003 report by the Government Accountability Office (GAO) reported that little research is available on the effectiveness of activities supported by CWS funds—evaluations of services supported by PSSF funds have generally shown little or no effect.

(4) Further, the Department of Health and Human Services recently completed initial Child and Family Service Reviews (CFSRs) in each State. No State was in full compliance with all measures of the CFSRs. The CFSRs also revealed that States need to work to prevent repeat abuse and neglect of children, improve services provided to families to reduce the risk of future harm (including by better monitoring the participation of families in services), and strengthen upfront services provided to families to prevent unnecessary family break-up and protect children who remain at home.

(5) Federal policy should encourage States to invest their CWS and PSSF funds in services that promote and protect the welfare of children, support strong, healthy families, and reduce the reliance on out-of-home care, which will help ensure all children are raised in safe, loving families.

(6) CFSRs also found a strong correlation between frequent caseworker visits with children and positive outcomes for these children, such as timely achievement of permanency and other indicators of child well-being.

(7) However, a December 2005 report by the Department of Health and Human Services Office of Inspector General found that only 20 States were able to produce reports to show whether caseworkers actually visited children in foster care on at least a monthly basis, despite the fact that nearly all States had written standards suggesting monthly visits were State policy.

(8) A 2003 GAO report found that the average tenure for a child welfare caseworker is less than 2 years and this level of turnover

negatively affects safety and permanency for children.

(9) Targeting CWS and PSSF funds to ensure children in foster care are visited on at least a monthly basis will promote better outcomes for vulnerable children, including by preventing further abuse and neglect.

(10) According to the Office of Applied Studies of the Substance Abuse and Mental Health Services Administration, the annual number of new uses of Methamphetamine, also known as ''meth,'' has increased 72 percent over the past decade. According to a study conducted by the National Association of Counties which surveyed 500 county law enforcement agencies in 45 states, 88 percent of the agencies surveyed reported increases in meth related arrests starting 5 years ago.

(11) According to the 2004 National Survey on Drug Use and Health, nearly 12,000,000 Americans have tried methamphetamine. Meth making operations have been uncovered in all 50 states, but the most widespread abuse has been concentrated in the western, southwestern, and Midwestern United States.

(12) Methamphetamine abuse is on the increase, particularly among women of childbearing age. This is having an impact on child welfare systems in many States. According to a survey administered by the National Association of Counties (''The Impact of Meth on Children''), conducted in 300 counties in 13 states, meth is a major cause of child abuse and neglect. Forty percent of all the child welfare officials in the survey reported an increase in out-of-home placements because of meth in 2005.

(13) It is appropriate also to target PSSF funds to address this issue because of the unique strain the meth epidemic puts on child welfare agencies. Outcomes for children affected by meth are enhanced when services provided by law enforcement, child welfare and substance abuse agencies are integrated.

**SEC. 3. REAUTHORIZATION OF THE PROMOTING SAFE AND STABLE FAMILIES PROGRAM.**

(a) FUNDING OF MANDATORY GRANTS AT $345 MILLION PER FISCAL YEAR.—Effective October 1, 2006, section 436(a) of the Social Security Act (42 U.S.C. 629f(a)) is amended by striking ''fiscal year 2006.'' and all that follows and inserting ''each of fiscal years 2007 through 2011''.

(b) FUNDING OF DISCRETIONARY GRANTS.—Section 437(a) of such Act (42 U.S.C. 629g(a)) is amended by striking ''2002 through 2006'' and inserting ''2007 through 2011''.

(c) AVAILABILITY OF PROMOTING SAFE AND STABLE FAMILIES RESOURCES FOR FISCAL YEAR 2006.—

(1) APPROPRIATION.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Secretary of Health and Human Services $40,000,000 for fiscal year 2006 to carry out section 436 of the Social Security Act, in addition to any amount otherwise made available for fiscal year 2006 to carry out such section.

(2) AVAILABILITY OF FUNDS.—Notwithstanding sections 434(b)(2) and 436(b)(3) of such Act, the amount appropriated under paragraph (1) of this subsection—

(A) shall remain available for expenditure through fiscal year 2009 solely for the purpose described in section 436(b)(4)(B)(i) of such Act;

(B) shall not be used to supplant any Federal funds paid under part E of title IV of such Act that could be used for that purpose; and

(C) shall not be made available to any Indian tribe or tribal consortium.

(d) ELIMINATION OF FINDINGS.—Section 430 of such Act (42 U.S.C. 629) is amended by striking all through ''(b) PURPOSE.—The purpose'' and inserting the following:

**''SEC. 430. PURPOSE.**

''The purpose''.

(e) ANNUAL BUDGET REQUESTS, SUMMARIES, AND EXPENDITURE REPORTS.—

(1) IN GENERAL.—Section 432(a)(8) of such Act (42 U.S.C. 629b(a)(8)) is amended—

(A) by inserting ''(A)'' after ''(8)''; and

(B) by adding at the end the following:

''(B) provides that, not later than June 30 of each year, the State will submit to the Secretary—

''(i) copies of forms CFS 101–Part I and CFS 101–Part II (or any successor forms) that report on planned child and family services expenditures by the agency for the immediately succeeding fiscal year; and

''(ii) copies of forms CFS 101–Part I and CFS 101–Part II (or any successor forms) that provide, with respect to the programs authorized under this subpart and subpart 1 and, at State option, other programs included on such forms, for the most recent preceding fiscal year for which reporting of actual expenditures is complete—

''(I) the numbers of families and of children served by the State agency;

''(II) the population served by the State agency;

''(III) the geographic areas served by the State agency; and

''(IV) the actual expenditures of funds provided to the State agency; and''.

(2) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—Section 432 of such Act (42 U.S.C. 629b) is amended by adding at the end the following:

''(c) ANNUAL SUBMISSION OF STATE REPORTS TO CONGRESS.—The Secretary shall compile the reports required under subsection (a)(8)(B) and, not later than September 30 of each year, submit such compilation to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''.

(3) EFFECTIVE DATE; INITIAL DEADLINES FOR SUBMISSIONS.—The amendments made by this subsection take effect on the date of enactment of this Act. Each State with an approved plan under subpart 1 or 2 of part B of title IV of the Social Security Act shall make its initial submission of the forms required under section 432(a)(8)(B) of the Social Security Act to the Secretary of Health and Human Services by June 30, 2007, and the Secretary of Health and Human Services shall submit the first compilation required under section 432(c) of the Social Security Act by September 30, 2007.

(f) LIMITATION ON ADMINISTRATIVE COST REIMBURSEMENT.—

(1) IN GENERAL.—Section 434 of such Act (42 U.S.C. 629d) is amended—

(A) in subsection (a), by inserting '', subject to subsection (d),'' after ''shall''; and

(B) by adding at the end the following:

''(d) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—The Secretary shall not make a payment to a State under this section with respect to expenditures for administrative costs during a fiscal year, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year under the State plan approved under section 432.''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to expenditures made on or after October 1, 2007.

**SEC. 4. TARGETING OF PROMOTING SAFE AND STABLE FAMILIES PROGRAM RESOURCES.**

(a) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

(1) RESERVATION AND USE OF FUNDS.—Section 436(b) of the Social Security Act (42 U.S.C. 629f(b)) is amended by adding at the end the following:

''(4) SUPPORT FOR MONTHLY CASEWORKER VISITS.—

''(A) RESERVATION.—The Secretary shall reserve for allotment in accordance with section 433(e)—

''(i) $5,000,000 for fiscal year 2008;

''(ii) $10,000,000 for fiscal year 2009; and

''(iii) $20,000,000 for each of fiscal years 2010 and 2011.

''(B) USE OF FUNDS.—

''(i) IN GENERAL.—A State to which an amount is paid from amounts reserved under subparagraph (A) shall use the amount to support monthly caseworker visits with children who are in foster care under the responsibility of the State, with a primary emphasis on activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.

''(ii) NONSUPPLANTATION.—A State to which an amount is paid from amounts reserved pursuant to subparagraph (A) shall not use the amount to supplant any Federal funds paid to the State under part E that could be used as described in clause (i).''.

(2) ALLOTMENT OF FUNDS.—Section 433 of such Act (42 U.S.C. 629c) is amended—

(A) in subsection (d), by inserting ''subsection (a), (b), or (c) of'' before ''this section'' the 1st and 2nd places it appears; and

(B) by adding at the end the following:

''(e) ALLOTMENT OF FUNDS RESERVED TO SUPPORT MONTHLY CASEWORKER VISITS.—

''(1) TERRITORIES.—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year, the Secretary shall allot to each jurisdiction specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the jurisdiction has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 423 (without regard to the initial allotment of $70,000 to each State).

''(2) OTHER STATES.—From the amount reserved pursuant to section 436(b)(4)(A) for any fiscal year that remains after applying paragraph (1) of this subsection for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) not specified in subsection (b) of this section, that has provided to the Secretary such documentation as may be necessary to verify that the State has complied with section 436(b)(4)(B)(ii) during the fiscal year, an amount equal to such remaining amount multiplied by the food stamp percentage of the State (as defined in subsection (c)(2) of this section) for the fiscal year, except that in applying subsection (c)(2)(A) of this section, 'subsection (e)(2)' shall be substituted for 'such paragraph (1)'.''.

(3) PAYMENTS TO STATES.—Section 434(a) of such Act (42 U.S.C. 629d(a)), as amended by section 3(f)(1) of this Act, is amended by striking ''the lesser of—'' and all that follows and inserting the following: ''the sum of—

''(1) the lesser of—

''(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

''(B) the allotment of the State under subsection (a), (b), or (c) of section 433, whichever is applicable, for the fiscal year; and

''(2) the lesser of—

''(A) 75 percent of the total expenditures by the State in accordance with section 436(b)(4)(B) during the fiscal year or the immediately succeeding fiscal year; or

''(B) the allotment of the State under section 433(e) for the fiscal year.''.

(b) SUPPORT FOR TARGETED GRANTS TO INCREASE THE WELL BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY METHAMPHETAMINE OR OTHER SUBSTANCE ABUSE.—

(1) RESERVATION OF FUNDS.—Section 436(b) of such Act (42 U.S.C. 629f(b)), as amended by subsection (a)(1) of this section, is amended by adding at the end the following:

''(5) REGIONAL PARTNERSHIP GRANTS.—The Secretary shall reserve for awarding grants under section 437(f)—

''(A) $40,000,000 for fiscal year 2007;

''(B) $35,000,000 for fiscal year 2008;

''(C) $30,000,000 for fiscal year 2009; and

''(D) $20,000,000 for each of fiscal years 2010 and 2011.''.

(2) TARGETED GRANTS.—

(A) IN GENERAL.—Section 437 of such Act (42 U.S.C. 629g) is amended by adding at the end the following:

''(f) TARGETED GRANTS TO INCREASE THE WELL BEING OF, AND TO IMPROVE THE PERMANENCY OUTCOMES FOR, CHILDREN AFFECTED BY METHAMPHETAMINE OR OTHER SUBSTANCE ABUSE.—

''(1) PURPOSE.—The purpose of this subsection is to authorize the Secretary to make competitive grants to regional partnerships to provide, through interagency collaboration and integration of programs and services, services and activities that are designed to increase the well-being of, improve permanency outcomes for, and enhance the safety of children who are in an out-of-home placement or are at risk of being placed in an out-of-home placement as a result of a parent's or caretaker's methamphetamine or other substance abuse.

''(2) REGIONAL PARTNERSHIP DEFINED.—

''(A) IN GENERAL.—In this subsection, the term 'regional partnership' means a collaborative agreement (which may be established on an interstate or intrastate basis) entered into by at least 2 of the following:

''(i) The State child welfare agency that is responsible for the administration of the State plan under this part and part E.

''(ii) The State agency responsible for administering the substance abuse prevention and treatment block grant provided under subpart II of part B of title XIX of the Public Health Service Act.

''(iii) An Indian tribe or tribal consortium.

''(iv) Nonprofit child welfare service providers.

''(v) For-profit child welfare service providers.

''(vi) Community health service providers.

''(vii) Community mental health providers.

''(viii) Local law enforcement agencies.

''(ix) Judges and court personnel.

''(x) Juvenile justice officials.

''(xi) School personnel.

''(xii) Tribal child welfare agencies (or a consortia of such agencies).

''(xiii) Any other providers, agencies, personnel, officials, or entities that are related to the provision of child and family services under this subpart.

''(B) REQUIREMENTS.—

''(i) STATE CHILD WELFARE AGENCY PARTNER.—Subject to clause (ii)(I), a regional partnership entered into for purposes of this subsection shall include the State child welfare agency that is responsible for the administration of the State plan under this part and part E as 1 of the partners.

''(ii) REGIONAL PARTNERSHIPS ENTERED INTO BY INDIAN TRIBES OR TRIBAL CONSORTIA.—If an Indian tribe or tribal consortium enters into a regional partnership for purposes of this subsection, the Indian tribe or tribal consortium—

''(I) may (but is not required to) include such State child welfare agency as a partner in the collaborative agreement; and

''(II) may not enter into a collaborative agreement only with tribal child welfare agencies (or a consortium of such agencies).

''(iii) NO STATE AGENCY ONLY PARTNERSHIPS.—If a State agency described in clause (i) or (ii) of subparagraph (A) enters into a regional partnership for purposes of this subsection, the State agency may not enter into a collaborative agreement only with the other State agency described in such clause (i) or (ii).

''(3) AUTHORITY TO AWARD GRANTS.—

''(A) IN GENERAL.—In addition to amounts authorized to be appropriated to carry out this section, the Secretary shall award grants under this subsection, from the amounts reserved for each of fiscal years 2007 through 2011 under section 436(b)(5), to regional partnerships that satisfy the requirements of this subsection, in amounts that are not less than $500,000 and not more than $1,000,000 per grant per fiscal year.

''(B) REQUIRED MINIMUM PERIOD OF APPROVAL.—A grant shall be awarded under this subsection for a period of not less than 2, and not more than 5, fiscal years.

''(4) APPLICATION REQUIREMENTS.—To be eligible for a grant under this subsection, a regional partnership shall submit to the Secretary a written application containing the following:

''(A) Recent evidence demonstrating that methamphetamine or other substance abuse has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

''(B) A description of the goals and outcomes to be achieved during the funding period for the grant that will—

''(i) enhance the well-being of children receiving services or taking part in activities conducted with funds provided under the grant;

''(ii) lead to safety and permanence for such children; and

''(iii) decrease the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region.

''(C) A description of the joint activities to be funded in whole or in part with the funds provided under the grant, including the sequencing of the activities proposed to be conducted under the funding period for the grant.

''(D) A description of the strategies for integrating programs and services determined to be appropriate for the child and where appropriate, the child's family.

''(E) A description of the strategies for—

''(i) collaborating with the State child welfare agency described in paragraph (2)(A)(i) (unless that agency is the lead applicant for the regional partnership); and

''(ii) consulting, as appropriate, with—

''(I) the State agency described in paragraph (2)(A)(ii); and

''(II) the State law enforcement and judicial agencies.

To the extent the Secretary determines that the requirement of this subparagraph would be inappropriate to apply to a regional partnership that includes an Indian tribe, tribal consortium, or a tribal child welfare agency or a consortium of such agencies, the Secretary may exempt the regional partnership from the requirement.

''(F) Such other information as the Secretary may require.

''(5) USE OF FUNDS.—Funds made available under a grant made under this subsection shall only be used for services or activities that are consistent with the purpose of this subsection and may include the following:

''(A) Family-based comprehensive long-term substance abuse treatment services.

''(B) Early intervention and preventative services.

''(C) Children and family counseling.

''(D) Mental health services.

''(E) Parenting skills training.

''(F) Replication of successful models for providing family-based comprehensive long-term substance abuse treatment services.

''(6) MATCHING REQUIREMENT.—

''(A) FEDERAL SHARE.—A grant awarded under this subsection shall be available to pay a percentage share of the costs of services provided or activities conducted under such grant, not to exceed—

''(i) 85 percent for the first and second fiscal years for which the grant is awarded to a recipient;

''(ii) 80 percent for the third and fourth such fiscal years; and

''(iii) 75 percent for the fifth such fiscal year.

''(B) NON-FEDERAL SHARE.—The non-Federal share of the cost of services provided or activities conducted under a grant awarded under this subsection may be in cash or in kind. In determining the amount of the non-Federal share, the Secretary may attribute fair market value to goods, services, and facilities contributed from non-Federal sources.

''(7) CONSIDERATIONS IN AWARDING GRANTS.—In awarding grants under this subsection, the Secretary shall—

''(A) take into consideration the extent to which applicant regional partnerships—

''(i) demonstrate that methamphetamine or other substance abuse by parents or caretakers has had a substantial impact on the number of out-of-home placements for children, or the number of children who are at risk of being placed in an out-of-home placement, in the partnership region;

''(ii) have limited resources for addressing the needs of children affected by such abuse;

''(iii) have a lack of capacity for, or access to, comprehensive family treatment services; and

''(iv) demonstrate a plan for sustaining the services provided by or activities funded under the grant after the conclusion of the grant period; and

''(B) after taking such factors into consideration, give greater weight to awarding grants to regional partnerships that propose to address methamphetamine abuse and addiction in the partnership region (alone or in combination with other drug abuse and addiction) and which demonstrate that methamphetamine abuse and addiction (alone or in combination with other drug abuse and addiction) is adversely affecting child welfare in the partnership region.

''(8) PERFORMANCE INDICATORS.—

''(A) IN GENERAL.—Not later than 9 months after the date of enactment of this subsection, the Secretary shall establish indicators that will be used to assess periodically the performance of the grant recipients under this subsection in using funds made available under such grants to achieve the purpose of this subsection.

''(B) CONSULTATION REQUIRED.—In establishing the performance indicators required by subparagraph (A), the Secretary shall consult with the following:

''(i) The Assistant Secretary for the Administration for Children and Families.

''(ii) The Administrator of the Substance Abuse and Mental Health Services Administration.

''(iii) Representatives of States in which a State agency described in clause (i) or (ii) of paragraph (2)(A) is a member of a regional partnership that is a grant recipient under this subsection.

''(iv) Representatives of Indian tribes, tribal consortia, or tribal child welfare agencies that are members of a regional partnership that is a grant recipient under this subsection.

''(9) REPORTS.—

''(A) GRANTEE REPORTS.—

''(i) ANNUAL REPORT.—Not later than September 30 of the first fiscal year in which a recipient of a grant under this subsection is paid funds under the grant, and annually thereafter until September 30 of the last fiscal year in which the recipient is paid funds under the grant, the recipient shall submit to the Secretary a report on the services provided or activities carried out during that fiscal year with such funds. The report shall contain such information as the Secretary determines is necessary to provide an accurate description of the services provided or activities conducted with such funds.

''(ii) INCORPORATION OF INFORMATION RELATED TO PERFORMANCE INDICATORS.—Each recipient of a grant under this subsection shall incorporate into the first annual report required by clause (i) that is submitted after the establishment of performance indicators under paragraph (8), information required in relation to such indicators.

''(B) REPORTS TO CONGRESS.—On the basis of the reports submitted under subparagraph (A), the Secretary annually shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on—

''(i) the services provided and activities conducted with funds provided under grants awarded under this subsection;

''(ii) the performance indicators established under paragraph (8); and

''(iii) the progress that has been made in addressing the needs of families with methamphetamine or other substance abuse problems who come to the attention of the child welfare system and in achieving the goals of child safety, permanence, and family stability.''.

(B) CONFORMING AMENDMENTS.—Section 437 of such Act (42 U.S.C. 629g) is amended—

(i) in the section heading, by inserting ''**AND TARGETED**'' after ''**DISCRETIONARY**''; and

(ii) in subsection (e), by striking ''this section'' and inserting ''subsection (a)''.

(c) EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.—Section 435(c) of such Act (42 U.S.C. 629e(c)) is amended to read as follows :

''(c) EVALUATION, RESEARCH, AND TECHNICAL ASSISTANCE WITH RESPECT TO TARGETED PROGRAM RESOURCES.—Of the amount reserved under section 436(b)(1) for a fiscal year, the Secretary shall use not less than—

''(1) $1,000,000 for evaluations, research, and providing technical assistance with respect to supporting monthly caseworker visits with children who are in foster care under the responsibility of the State, in accordance with section 436(b)(4)(B)(i); and

''(2) $1,000,000 for evaluations, research, and providing technical assistance with respect to grants under section 437(f).''.

**SEC. 5. ALLOTMENTS AND GRANTS TO INDIAN TRIBES.**

(a) INCREASE IN SET-ASIDES FOR INDIAN TRIBES.—

(1) MANDATORY GRANTS.—Section 436(b)(3) of the Social Security Act (42 U.S.C. 629f(b)(3)) is amended by striking ''1'' and inserting ''3''.

(2) DISCRETIONARY GRANTS.—Section 437(b)(3) of such Act (42 U.S.C. 629g(b)(3)) is amended by striking ''2'' and inserting ''3''.

(3) EFFECT OF RESERVATION OF FUNDS FOR TARGETED PROGRAM RESOURCES ON AMOUNTS RESERVED FOR INDIAN TRIBES.—Section 436(b)(3) of such Act (42 U.S.C. 629b(b)(3)) is amended by striking ''The'' and inserting ''After applying paragraphs (4) and (5) (but before applying paragraphs (1) or (2)), the''.

(b) AUTHORITY FOR TRIBAL CONSORTIA TO RECEIVE ALLOTMENTS.—

(1) ALLOTMENT OF MANDATORY FUNDS.—

(A) IN GENERAL.—Section 433(a) of such Act (42 U.S.C. 629c(a)) is amended—

(i) in the subsection heading, by inserting ''OR TRIBAL CONSORTIA'' after ''TRIBES''; and

(ii) by adding at the end the following new sentence: ''If a consortium of Indian tribes submits a plan approved under this subpart, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.''.

(B) CONFORMING AMENDMENT.—Section 436(b)(3) of such Act (42 U.S.C. 629f(b)(3)) is amended—

(i) in the paragraph heading, by inserting ''OR TRIBAL CONSORTIA'' after ''TRIBES''; and

(ii) by inserting ''or tribal consortia'' after ''Indian tribes''.

(2) ALLOTMENT OF ANY DISCRETIONARY FUNDS.—Section 437 of such Act (42 U.S.C. 629g) is amended—

(A) in subsection (b)(3)—

(i) in the paragraph heading, by inserting ''OR TRIBAL CONSORTIA'' after ''TRIBES''; and

(ii) by inserting ''or tribal consortia'' after ''Indian tribes''; and

(B) in subsection (c)(1)—

(i) in the paragraph heading, by inserting ''OR TRIBAL CONSORTIA'' after ''TRIBES''; and

(ii) by adding at the end the following new sentence: ''If a consortium of Indian tribes applies and is approved for a grant under this section, the Secretary shall allot to the consortium an amount equal to the sum of the allotments determined for each Indian tribe that is part of the consortium.''.

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) PLANS OF INDIAN TRIBES.—Section 432(b)(2) of such Act (42 U.S.C. 629b(b)(2)) is amended—

(i) in the paragraph heading, by inserting ''OR TRIBAL CONSORTIA'' after ''TRIBES'';

(ii) in subparagraph (A), by inserting ''or tribal consortium'' after ''Indian tribe'' each place it appears; and

(iii) in subparagraph (B)—

(I) by inserting ''or tribal consortium'' after ''Indian tribe''; and

(II) by inserting ''and tribal consortia'' after ''Indian tribes''.

(B) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS.—Section 434(c) of such Act (42 U.S.C. 629d(c)) is amended—

(i) in the subsection heading, by inserting ''OR TRIBAL CONSORTIA'' after ''TRIBES''; and

(ii) by inserting ''or tribal consortium'' after ''Indian tribe'' the first place it appears; and

(iii) by inserting ''or in the case of a payment to a tribal consortium, such tribal organizations of, or entity established by, the Indian tribes that are part of the consortium as the consortium shall designate'' before the period.

(C) EVALUATIONS; RESEARCH; TECHNICAL ASSISTANCE.—Section 435(d) of such Act (42 U.S.C. 629e(d)) is amended in the matter preceding paragraph (1), by inserting ''or tribal consortia'' after ''Indian tribes''.

(c) COLLECTION OF DATA ON TRIBAL PROMOTING SAFE AND STABLE FAMILIES PLANS.—Section 432(b)(2)(A) of such Act (42 U.S.C. 629b(b)(2)(A)), as amended by subsection (b)(3)(A)(ii) of this section, is amended by striking ''any requirement of this section that the Secretary determines'' and inserting ''the requirements of subsection (a)(4) of this section to the extent that the Secretary determines those requirements''.

**SEC. 6. IMPROVEMENTS TO THE CHILD WELFARE SERVICES PROGRAM.**

(a) FUNDING.—Subpart 1 of part B of title IV of the Social Security Act (42 U.S.C. 620–628b) is amended by striking sections 420 and 425 and inserting after section 424 the following:

''LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS

''SEC. 425. To carry out this subpart, there are authorized to be appropriated to the Secretary not more than $325,000,000 for each of fiscal years 2007 through 2011.''.

(b) PURPOSE OF PROGRAM.—Such subpart is further amended—

(1) by striking section 424;

(2) by redesignating sections 421 and 423 as sections 423 and 424, respectively, and by transferring section 423 (as so redesignated) so that it appears after section 422; and

(3) by inserting after the subpart heading the following:

''PURPOSE

''SEC. 421. The purpose of this subpart is to promote State flexibility in the development and expansion of a coordinated child and family services program that utilizes community-based agencies and ensures all children are raised in safe, loving families, by—

''(1) protecting and promoting the welfare of all children;

''(2) preventing the neglect, abuse, or exploitation of children;

''(3) supporting at-risk families through services which allow children, where appropriate, to remain safely with their families or return to their families in a timely manner;

''(4) promoting the safety, permanence, and well-being of children in foster care and adoptive families; and

''(5) providing training, professional development and support to ensure a well-qualified child welfare workforce.''.

(c) MODIFICATION OF STATE PLAN REQUIREMENTS.—Section 422 of such Act (42 U.S.C. 622) is amended—

(1) in subsection (b)—

(A) by striking paragraphs (3) through (5) and inserting the following:

''(3) include a description of the services and activities which the State will fund under the State program carried out pursuant to this subpart, and how the services and activities will achieve the purpose of this subpart;'';

(B) by striking paragraph (6) and inserting after paragraph (3) (as added by subparagraph (A) of this paragraph) the following:

''(4) contain a description of—

''(A) the steps the State will take to provide child welfare services statewide and to expand and strengthen the range of existing services and develop and implement services to improve child outcomes; and

''(B) the child welfare services staff development and training plans of the State;'';

(C) by redesignating paragraphs (7) through (9) as paragraphs (5) through (7), respectively;

(D) in paragraph (10)—

(i) by striking subparagraph (A);

(ii) in subparagraph (B)(iii)(II), by inserting '', which may include a residential educational program'' after ''in some other planned, permanent living arrangement'';

(iii) by redesignating subparagraph (B) as subparagraph (A); and

(iv) by striking subparagraph (C) and inserting after subparagraph (A) the following:

''(B) has in effect policies and administrative and judicial procedures for children abandoned at or shortly after birth (including policies and procedures providing for legal representation of the children) which enable permanent decisions to be made expeditiously with respect to the placement of the children;'';

(E) in paragraph (14), by striking ''and'' at the end;

(F) in paragraph (15), by striking the period and inserting a semicolon;

(G) by redesignating paragraphs (10) through (15) as paragraphs (8) through (13), respectively; and

(H) by adding at the end the following:

''(14) not later than October 1, 2007, include assurances that not more than 10 percent of the expenditures of the State with respect to activities funded from amounts provided under this subpart will be for administrative costs;

''(15) describe how the State actively consults with and involves physicians or other appropriate medical professionals in—

''(A) assessing the health and well-being of children in foster care under the responsibility of the State; and

''(B) determining appropriate medical treatment for the children; and

''(16) provide that, not later than 1 year after the date of the enactment of this paragraph, the State shall have in place procedures providing for how the State programs assisted under this subpart, subpart 2 of this part, or part E would respond to a disaster, in accordance with criteria established by the Secretary which should include how a State would—

''(A) identify, locate, and continue availability of services for children under State care or supervision who are displaced or adversely affected by a disaster;

''(B) respond, as appropriate, to new child welfare cases in areas adversely affected by a disaster, and provide services in those cases;

''(C) remain in communication with caseworkers and other essential child welfare personnel who are displaced because of a disaster;

''(D) preserve essential program records; and

''(E) coordinate services and share information with other States.''; and

(2) by adding at the end the following:

''(c) DEFINITIONS.—In this subpart:

''(1) ADMINISTRATIVE COSTS.—The term 'administrative costs' means costs for the following, but only to the extent incurred in administering the State plan developed pursuant to this subpart: procurement, payroll management, personnel functions (other than the portion of the salaries of supervisors attributable to time spent directly supervising the provision of services by caseworkers), management, maintenance and operation of space and property, data processing and computer services, accounting, budgeting, auditing, and travel expenses (except those related to the provision of services by caseworkers or the oversight of programs funded under this subpart).

''(2) OTHER TERMS.—For definitions of other terms used in this part, see section 475.''.

(d) PROVISIONS RELATING TO STATE ALLOTMENTS.—Section 423 of such Act, as so redesignated by subsection (b)(2) of this section, is amended—

(1) in subsection (a)—

(A) by inserting ''IN GENERAL.—'' after ''(a)''; and

(B) by striking ''420'' and inserting ''425''; and

(2) in subsection (b), by inserting ''DETERMINATION OF STATE ALLOTMENT PERCENTAGES.—'' after ''(b)'';

(3) in subsection (c), by inserting ''PROMULGATION OF STATE ALLOTMENT PERCENTAGES.—'' after ''(c)'';

(4) in subsection (d)—

(A) by inserting ''UNITED STATES DEFINED.—'' after ''(d)''; and

(B) by striking ''fifty'' and inserting ''50''; and

(5) by adding at the end the following:

''(e) REALLOTMENT OF FUNDS.—

''(1) IN GENERAL.—The amount of any allotment to a State for a fiscal year under the preceding provisions of this section which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 422 shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines—

''(A) need sums in excess of the amounts allotted to such other States under the preceding provisions of this section, in carrying out their State plans so developed; and

''(B) will be able to so use such excess sums during the fiscal year.

''(2) CONSIDERATIONS.—The Secretary shall make the reallotments on the basis of the State plans so developed, after taking into consideration—

''(A) the population under 21 years of age;

''(B) the per capita income of each of such other States as compared with the population under 21 years of age; and

''(C) the per capita income of all such other States with respect to which such a determination by the Secretary has been made.

''(3) AMOUNTS REALLOTTED TO A STATE DEEMED PART OF STATE ALLOTMENT.—Any amount so reallotted to a State is deemed part of the allotment of the State under this section.''.

(e) PAYMENTS TO STATES; LIMITATIONS ON USE OF FUNDS.—

(1) LIMITATIONS RELATED TO STATE EXPENDITURES FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, AND ADOPTION ASSISTANCE PAYMENTS.—Section 424 of such Act, as so redesignated by subsection (b)(2) of this section, is amended by striking subsections (c) and (d) and inserting the following:

''(c) LIMITATION ON USE OF FEDERAL FUNDS FOR CHILD CARE, FOSTER CARE MAINTENANCE PAYMENTS, OR ADOPTION ASSISTANCE PAYMENTS.—The total amount of Federal payments under this subpart for a fiscal year beginning after September 30, 2007, that may be used by a State for expenditures for child care, foster care maintenance payments, or adoption assistance payments shall not exceed the total amount of such payments for fiscal year 2005 that were so used by the State.

''(d) LIMITATION ON USE BY STATES OF NON-FEDERAL FUNDS FOR FOSTER CARE MAINTENANCE PAYMENTS TO MATCH FEDERAL FUNDS.—For any fiscal year beginning after September 30, 2007, State expenditures of non-Federal funds for foster care maintenance payments shall not be considered to be expenditures under the State plan developed under this subpart for the fiscal year to the extent that the total of such expenditures for the fiscal year exceeds the total of such expenditures under the State plan developed under this subpart for fiscal year 2005.''.

(2) LIMITATION ON ADMINISTRATIVE COST REIMBURSEMENT.—

(A) IN GENERAL.—Section 424 of such Act (42 U.S.C. 623), as so redesignated by subsection (b)(2) of this section, is amended by adding at the end the following:

''(e) LIMITATION ON REIMBURSEMENT FOR ADMINISTRATIVE COSTS.—A payment may not be made to a State under this section with respect to expenditures during a fiscal year for administrative costs, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year for activities funded from amounts provided under this subpart.''.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to expenditures made on or after October 1, 2007.

(f) CONFORMING AMENDMENTS.—

(1) Section 428(b) of such Act (42 U.S.C. 628(b)) is amended by striking ''421'' and inserting ''423''.

(2) Section 429 of such Act (42 U.S.C. 628a) is amended—

(A)(i) by striking the following:

''CHILD WELFARE TRAINEESHIPS

''SEC. 429. The Secretary''; and

(ii) inserting the following:

''(c) CHILD WELFARE TRAINEESHIPS.—The Secretary''; and

(B) by transferring the provision to the end of section 426 (as amended by section 11(b) of this Act).

(3) Section 429A of such Act (42 U.S.C. 628b) is redesignated as section 429.

(4) Section 433(b) of such Act (42 U.S.C. 629c(b)) is amended by striking ''421'' and inserting ''423''.

(5) Section 437(c)(2) of such Act (42 U.S.C. 629g(c)(2)) is amended by striking ''421'' and inserting ''423''.

(6) Section 472(d) of such Act (42 U.S.C. 672(d)) is amended by striking ''422(b)(10)'' and inserting ''422(b)(8)''.

(7) Section 473A(f) of such Act (42 U.S.C. 673b(f)) is amended by striking ''423'' and inserting ''424''.

(8) Section 1130(b)(1) of such Act (42 U.S.C. 1320a–9(b)(1)) is amended to read as follows:.

''(1) any provision of section 422(b)(8), or section 479; or''.

(9) Section 104(b)(3) of the Intercountry Adoption Act of 2000 (42 U.S.C. 14914(b)(3)) is amended by striking ''422(b)(14) of the Social Security Act, as amended by section 205 of this Act'' and inserting ''422(b)(12) of the Social Security Act''.

**SEC. 7. MONTHLY CASEWORKER STANDARD.**

(a) STATE PLAN REQUIREMENT.—Section 422(b) of the Social Security Act (42 U.S.C. 622(b)), as amended by section 6(c) of this Act, is amended—

(1) by striking ''and'' at the end of paragraph (15);

(2) by striking the period at the end of paragraph (16) and inserting ''; and''; and

(3) by adding at the end the following:

''(17) not later than October 1, 2007, describe the State standards for the content and frequency of caseworker visits for children who are in foster care under the responsibility of the State, which, at a minimum, ensure that the children are visited on a monthly basis and that the caseworker visits are well-planned and focused on issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the children.''.

(b) ENFORCEMENT.—Section 424 of the Social Security Act, as so redesignated by section 6(b)(2) of this Act, is amended by adding at the end the following:

''(e)(1) The Secretary may not make a payment to a State under this subpart for a period in fiscal year 2008, unless the State has provided to the Secretary data which shows, for fiscal year 2007—

''(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and

''(B) the percentage of the visits that occurred in the residence of the child.

''(2)(A) Based on the data provided by a State pursuant to paragraph (1), the Secretary, in consultation with the State, shall establish, not later than June 30, 2008, an outline of the steps to be taken to ensure, by October 1, 2011, that at least 90 percent of the children in foster care under the responsibility of the State are visited by their caseworkers on a monthly basis, and that the majority of the visits occur in the residence of the child. The outline shall include target percentages to be reached each fiscal year,

and should include a description of how the steps will be implemented. The steps may include activities designed to improve caseworker retention, recruitment, training, and ability to access the benefits of technology.

''(B) Beginning October 1, 2008, if the Secretary determines that a State has not made the requisite progress in meeting the goal described in subparagraph (A) of this paragraph, then the percentage that shall apply for purposes of subsection (a) of this section for the period involved shall be the percentage set forth in such subsection (a) reduced by—

''(i) 1, if the number of full percentage points by which the State fell short of the target percentage established for the State for the period pursuant to such subparagraph is less than 10;

''(ii) 3, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 10 and less than 20; or

''(iii) 5, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 20.''.

(c) REPORTS.—

(1) PROGRESS REPORT.—Not later than March 31, 2010, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that outlines the progress made by the States in meeting the standards referred to in section 422(b)(17) of the Social Security Act, and offers recommendations developed in consultation with State officials responsible for administering child welfare programs and members of the State legislature to assist States in their efforts to ensure that foster children are visited on a monthly basis.

(2) INCLUSION OF INFORMATION ON CASEWORKER VISITS IN ANNUAL CHILD WELL-BEING OUTCOME REPORTS.—Section 479A of such Act (42 U.S.C. 679b) is amended—

(A) by striking ''and'' at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting ''; and''; and

(C) by adding at the end the following:

''(6) include in the report submitted pursuant to paragraph (5) for fiscal year 2007 or any succeeding fiscal year, State-by-State data on—

''(A) the percentage of children in foster care under the responsibility of the State who were visited on a monthly basis by the caseworker handling the case of the child; and

''(B) the percentage of the visits that occurred in the residence of the child.''.

**SEC. 8. REAUTHORIZATION OF PROGRAM FOR MENTORING CHILDREN OF PRISONERS.**

(a) IN GENERAL.—Section 439 of the Social Security Act (42 U.S.C. 629i) is amended—

(1) in subsection (c), by striking ''2002 through 2006'' and inserting ''2007 through 2011''; and

(2) in subsection (h)—

(A) by striking paragraph (1) and inserting the following:

''(1) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary such sums as may be necessary for fiscal years 2007 through 2011.''; and

(B) in paragraph (2), by striking ''2.5'' and inserting ''4''.

(b) SERVICE DELIVERY DEMONSTRATION PROJECT.—

(1) IN GENERAL.—Section 439 of such Act (42 U.S.C. 629i), as amended by subsection (a) of this section, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

''(g) SERVICE DELIVERY DEMONSTRATION PROJECT.—

''(1) PURPOSE; AUTHORITY TO ENTER INTO COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with an eligible entity that meets the requirements of paragraph (2) for the purpose of requiring the entity to conduct a demonstration project consistent with this subsection under which the entity shall—

''(A) identify children of prisoners in need of mentoring services who have not been matched with a mentor by an applicant awarded a grant under this section, with a priority for identifying children who—

''(i) reside in an area not served by a recipient of a grant under this section;

''(ii) reside in an area that has a substantial number of children of prisoners;

''(iii) reside in a rural area; or

''(iv) are Indians;

''(B) provide the families of the children so identified with—

''(i) a voucher for mentoring services that meets the requirements of paragraph (5); and

''(ii) a list of the providers of mentoring services in the area in which the family resides that satisfy the requirements of paragraph (6); and

''(C) monitor and oversee the delivery of mentoring services by providers that accept the vouchers.

''(2) ELIGIBLE ENTITY.—

''(A) IN GENERAL.—Subject to subparagraph (B), an eligible entity under this subsection is an organization that the Secretary determines, on a competitive basis—

''(i) has substantial experience—

''(I) in working with organizations that provide mentoring services for children of prisoners; and

''(II) in developing quality standards for the identification and assessment of mentoring programs for children of prisoners; and

''(ii) submits an application that satisfies the requirements of paragraph (3).

''(B) LIMITATION.—An organization that provides mentoring services may not be an eligible entity for purposes of being awarded a cooperative agreement under this subsection.

''(3) APPLICATION REQUIREMENTS.—To be eligible to be awarded a cooperative agreement under this subsection, an entity shall submit to the Secretary an application that includes the following:

''(A) QUALIFICATIONS.—Evidence that the entity—

''(i) meets the experience requirements of paragraph (2)(A)(i); and

''(ii) is able to carry out—

''(I) the purposes of this subsection identified in paragraph (1); and

''(II) the requirements of the cooperative agreement specified in paragraph (4).

''(B) SERVICE DELIVERY PLAN.—

''(i) DISTRIBUTION REQUIREMENTS.—Subject to clause (iii), a description of the plan of the entity to ensure the distribution of not less than—

''(I) 3,000 vouchers for mentoring services in the first year in which the cooperative agreement is in effect with that entity;

''(II) 8,000 vouchers for mentoring services in the second year in which the agreement is in effect with that entity ; and

''(III) 13,000 vouchers for mentoring services in any subsequent year in which the agreement is in effect with that entity.

''(ii) SATISFACTION OF PRIORITIES.—A description of how the plan will ensure the delivery of mentoring services to children identified in accordance with the requirements of paragraph (1)(A).

''(iii) SECRETARIAL AUTHORITY TO MODIFY DISTRIBUTION REQUIREMENT.—The Secretary may modify the number of vouchers specified in subclauses (I) through (III) of clause (i) to take into account the availability of appropriations and the need to ensure that the vouchers distributed by the entity are for amounts that are adequate to ensure the provision of mentoring services for a 12-month period.

''(C) COLLABORATION AND COOPERATION.—A description of how the entity will ensure collaboration and cooperation with other interested parties, including courts and prisons, with respect to the delivery of mentoring services under the demonstration project.

''(D) OTHER.—Any other information that the Secretary may find necessary to demonstrate the capacity of the entity to satisfy the requirements of this subsection.

''(4) COOPERATIVE AGREEMENT REQUIREMENTS.—A cooperative agreement awarded under this subsection shall require the eligible entity to do the following:

''(A) IDENTIFY QUALITY STANDARDS FOR PROVIDERS.—To work with the Secretary to identify the quality standards that a provider of mentoring services must meet in order to participate in the demonstration project and which, at a minimum, shall include criminal records checks for individuals who are prospective mentors and shall prohibit approving any individual to be a mentor if the criminal records check of the individual reveals a conviction which would prevent the individual from being approved as a foster or adoptive parent under section 471(a)(20)(A).

''(B) IDENTIFY ELIGIBLE PROVIDERS.—To identify and compile a list of those providers of mentoring services in any of the 50 States or the District of Columbia that meet the quality standards identified pursuant to subparagraph (A).

''(C) IDENTIFY ELIGIBLE CHILDREN.—To identify children of prisoners who require mentoring services, consistent with the priorities specified in paragraph (1)(A).

''(D) MONITOR AND OVERSEE DELIVERY OF MENTORING SERVICES.—To satisfy specific requirements of the Secretary for monitoring and overseeing the delivery of mentoring services under the demonstration project, which shall include a requirement to ensure that providers of mentoring services under the project report data on the children served and the types of mentoring services provided.

''(E) RECORDS, REPORTS, AND AUDITS.—To maintain any records, make any reports, and cooperate with any reviews and audits that the Secretary determines are necessary to oversee the activities of the entity in carrying out the demonstration project under this subsection.

''(F) EVALUATIONS.—To cooperate fully with any evaluations of the demonstration project, including collecting and monitoring data and providing the Secretary or the Secretary's designee with access to records and staff related to the conduct of the project.

''(G) LIMITATION ON ADMINISTRATIVE EXPENDITURES.—To ensure that administrative expenditures incurred by the entity in conducting the demonstration project with respect to a fiscal year do not exceed the amount equal to 10 percent of the amount awarded to carry out the project for that year.

''(5) VOUCHER REQUIREMENTS.—A voucher for mentoring services provided to the family of a child identified in accordance with paragraph (1)(A) shall meet the following requirements:

''(A) TOTAL PAYMENT AMOUNT; 12-MONTH SERVICE PERIOD.—The voucher shall specify the total amount to be paid a provider of mentoring services for providing the child on

whose behalf the voucher is issued with mentoring services for a 12-month period.

''(B) PERIODIC PAYMENTS AS SERVICES PROVIDED.—

''(i) IN GENERAL.—The voucher shall specify that it may be redeemed with the eligible entity by the provider accepting the voucher in return for agreeing to provide mentoring services for the child on whose behalf the voucher is issued.

''(ii) DEMONSTRATION OF THE PROVISION OF SERVICES.—A provider that redeems a voucher issued by the eligible entity shall receive periodic payments from the eligible entity during the 12-month period that the voucher is in effect upon demonstration of the provision of significant services and activities related to the provision of mentoring services to the child on whose behalf the voucher is issued.

''(6) PROVIDER REQUIREMENTS.—In order to participate in the demonstration project, a provider of mentoring services shall—

''(A) meet the quality standards identified by the eligible entity in accordance with paragraph (1);

''(B) agree to accept a voucher meeting the requirements of paragraph (5) as payment for the provision of mentoring services to a child on whose behalf the voucher is issued;

''(C) demonstrate that the provider has the capacity, and has or will have nonfederal resources, to continue supporting the provision of mentoring services to the child on whose behalf the voucher is issued, as appropriate, after the conclusion of the 12-month period during which the voucher is in effect; and

''(D) if the provider is a recipient of a grant under this section, demonstrate that the provider has exhausted its capacity for providing mentoring services under the grant.

''(7) 3-YEAR PERIOD; OPTION FOR RENEWAL.—

''(A) IN GENERAL.—A cooperative agreement awarded under this subsection shall be effective for a 3-year period.

''(B) RENEWAL.—The cooperative agreement may be renewed for an additional period, not to exceed 2 years and subject to any conditions that the Secretary may specify that are not inconsistent with the requirements of this subsection or subsection (i)(2)(B), if the Secretary determines that the entity has satisfied the requirements of the agreement and evaluations of the service delivery demonstration project demonstrate that the voucher service delivery method is effective in providing mentoring services to children of prisoners.

''(8) INDEPENDENT EVALUATION AND REPORT.—

''(A) IN GENERAL.—The Secretary shall enter into a contract with an independent, private organization to evaluate and prepare a report on the first 2 fiscal years in which the demonstration project is conducted under this subsection.

''(B) DEADLINE FOR REPORT.—Not later than 90 days after the end of the second fiscal year in which the demonstration project is conducted under this subsection, the Secretary shall submit the report required under subparagraph (A) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. The report shall include—

''(i) the number of children as of the end of such second fiscal year who received vouchers for mentoring services; and

''(ii) any conclusions regarding the use of vouchers for the delivery of mentoring services for children of prisoners.

''(9) NO EFFECT ON ELIGIBILITY FOR OTHER FEDERAL ASSISTANCE.—A voucher provided to a family under the demonstration project conducted under this subsection shall be disregarded for purposes of determining the eligibility for, or the amount of, any other Federal or federally-supported assistance for the family.''.

(2) CONFORMING AMENDMENTS.—Section 439 of such Act (42 U.S.C. 629i), as amended by subsection (a) of this section and paragraph (1) of this subsection, is amended—

(A) in subsection (a)—

(i) in the subsection heading, by striking ''PURPOSE'' and inserting ''PURPOSES''; and

(ii) in paragraph (2)—

(I) in the paragraph heading, by striking ''PURPOSE'' and inserting ''PURPOSES'';

(II) by striking ''The purpose of this section is to authorize the Secretary to make competitive'' and inserting ''The purposes of this section are to authorize the Secretary—

''(A) to make competitive'';

(iii) by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(B) to enter into on a competitive basis a cooperative agreement to conduct a service delivery demonstration project in accordance with the requirements of subsection (g).'';

(B) in subsection (c)—

(i) by striking ''(h)'' and inserting ''(i)''; and

(ii) by striking ''(h)(2)'' and inserting ''(i)(2)'';

(C) by amending subsection (h) (as so redesignated by paragraph (1)(A) of this subsection) to read as follows:

''(h) INDEPENDENT EVALUATION; REPORTS.—

''(1) INDEPENDENT EVALUATION.—The Secretary shall conduct by grant, contract, or cooperative agreement an independent evaluation of the programs authorized under this section, including the service delivery demonstration project authorized under subsection (g).

''(2) REPORTS.—Not later than 12 months after the date of enactment of this subsection, the Secretary shall submit a report to the Congress that includes the following:

''(A) The characteristics of the mentoring programs funded under this section.

''(B) The plan for implementation of the service delivery demonstration project authorized under subsection (g).

''(C) A description of the outcome-based evaluation of the programs authorized under this section that the Secretary is conducting as of that date of enactment and how the evaluation has been expanded to include an evaluation of the demonstration project authorized under subsection (g).

''(D) The date on which the Secretary shall submit a final report on the evaluation to the Congress.''; and

(D) in subsection (i) (as so redesignated)—

(i) in the subsection heading, by striking ''RESERVATION'' and inserting ''RESERVATIONS''; and

(ii) in paragraph (2)—

(I) by amending the paragraph heading to read as follows: ''RESERVATIONS'';

(II) by striking ''The'' and inserting the following:

''(A) RESEARCH, TECHNICAL ASSISTANCE, AND EVALUATION.—The''; and

(III) by adding at the end the following:

''(B) SERVICE DELIVERY DEMONSTRATION PROJECT.—

''(i) IN GENERAL.—Subject to clause (ii), for purposes of awarding a cooperative agreement to conduct the service delivery demonstration project authorized under subsection (g), the Secretary shall reserve not more than—

''(I) $5,000,000 of the amount appropriated under paragraph (1) for the first fiscal year in which funds are to be awarded for the agreement;

''(II) $10,000,000 of the amount appropriated under paragraph (1) for the second fiscal year in which funds are to be awarded for the agreement; and

''(III) $15,000,000 of the amount appropriated under paragraph (1) for the third fiscal year in which funds are to be awarded for the agreement.

''(ii) ASSURANCE OF FUNDING FOR GENERAL PROGRAM GRANTS.—With respect to any fiscal year, no funds may be awarded for a cooperative agreement under subsection (g), unless at least $25,000,000 of the amount appropriated under paragraph (1) for that fiscal year is used by the Secretary for making grants under this section for that fiscal year.''.

**SEC. 9. REAUTHORIZATION OF THE COURT IMPROVEMENT PROGRAM.**

Section 438 of the Social Security Act (42 U.S.C. 629h) is amended in each of subsections (c)(1)(A) and (d) by striking ''2006'' and inserting ''2011''.

**SEC. 10. REQUIREMENT FOR FOSTER CARE PROCEEDING TO INCLUDE, IN AN AGE-APPROPRIATE MANNER, CONSULTATION WITH THE CHILD THAT IS THE SUBJECT OF THE PROCEEDING.**

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C)) is amended—

(1) by inserting ''(i)'' after ''with respect to each such child,'';

(2) by striking ''and procedural safeguards shall also'' and inserting ''(ii) procedural safeguards shall''; and

(3) by inserting ''and (iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child;'' after ''parents;''.

**SEC. 11. TECHNICAL AMENDMENTS.**

(a) UPDATING OF ARCHAIC LANGUAGE.—

(1) Section 423 of the Social Security Act, as so redesignated by section 6(b)(2) of this Act—

(A) is amended by striking ''per centum'' and inserting ''percent''; and

(B) by striking ''He'' and inserting ''The Secretary''.

(2) Section 424(a) of such Act, as so redesignated by section 6(b)(2) of this Act, is amended by striking ''per centum'' and inserting ''percent''.

(b) ELIMINATION OF OBSOLETE PROVISION.—Section 426 of such Act (42 U.S.C. 626) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

(c) TECHNICAL CORRECTION.—Section 431(a)(6) of such Act (42 U.S.C. 629a(a)(6)) is amended by striking ''1986'' and inserting ''1996''.

**SEC. 12. EFFECTIVE DATES.**

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 2006, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan developed pursuant to subpart 1 of part B, or a State plan approved under subpart 2 of part B or part E, of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature

that begins after the date of the enactment of this Act. If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

(c) AVAILABILITY OF PROMOTING SAFE AND STABLE FAMILIES RESOURCES FOR FISCAL YEAR 2006.—Section 3(c) shall take effect on the date of the enactment of this Act.

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**SA 5025.** Mr. McCONNELL (for Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. HATCH, Mr. ROCKEFELLER, and Ms. SNOWE)) proposed an amendment to the bill S. 3525, to reauthorize the safe and stable families program, and for other purposes; as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Act, insert the following: ''An Act to amend part B of title IV of the Social Security Act to reauthorize the promoting safe and stable families program, and for other purposes.''.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 20, 2006, at 10 a.m., to conduct a hearing on ''Calculated Risk: Assessing Non-Traditional Mortgage Products.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to hold a committee hearing on the nomination of Mary Peters to be Secretary of Transportation on Wednesday, September 20, 2006 at 2:30 p.m.

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

COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, September 20, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Our Business Tax System: Objectives, Deficiencies, and Options for Reform''.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 20, 2006, at 10 a.m. to hold a hearing on nominations.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FRIST. Mr. President: I ask unanimous consent that on Wednesday, September 20, 2006 at 2:30 p.m. the Committee on Environment and Public Works be authorized to hold a hearing to examine approaches embodied in the Asia Pacific Partnership.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, September 20, 2006 at 10 a.m. in SD–430.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, September 20, 2006, at 2:30 p.m. for a hearing titled, ''Critical Mission: Assessing Spiral 1.1 of the National Security Personnel System.''

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

COMMITTEE ON INDIAN AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 20, 2006, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an Oversight Hearing on the Tribal Self Governance: Obstacles and Impediments to Expansion of Self Governance.

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

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Reporters' Privilege Legislation: Preserving Effective Federal Law Enforcement'' on Wednesday, September 20, 2006 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

*Witness List*

Panel I: The Honorable Paul J. McNulty, Deputy Attorney General, Department of Justice, Washington, DC.

Panel II: Theodore B. Olson, Partner, Gibson, Dunn & Crutcher LLP, Washington, DC; Bruce A. Baird, Partner, Covington & Burling LLP, Washington, DC; Victor E. Schwartz, Partner, Shook, Hardy & Bacon LLP, Washington, DC; Steven D. Clymer, Professor, Cornell Law School, Ithaca, NY.

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

COMMITTEE ON THE JUDICIARY

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''Examining the Proposal to Restructure the Ninth Circuit'' on Wednesday, September 20, 2006 at 2 p.m. in Dirksen Senate Office Building Room 226.

*Witness List*

Panel I: Members Panel (TBD).

Panel II: Rachel L. Brand, Assistant Attorney General, Office of Legal Policy, Department of Justice, Washington, DC.

Panel III: The Honorable Mary Schroeder, Chief Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Phoenix, AZ; The Honorable Richard Tallman, Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Seattle, WA; The Honorable Sidney R. Thomas, Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Billings, MT; The Honorable Diarmuid O'Scannlain, Circuit Judge, U.S. Court of Appeals for the Ninth Circuit, Portland, OR; and The Honorable John M. Roll, Chief District Judge, U.S. District Court for the District of Arizona, Tucson, AZ.

Panel IV: The Honorable Pete Wilson, Former United States Senator-CA and Former Governor of California, Bingham McCutchen, Of Counsel, Bingham Consulting Group, Principal, Los Angeles, CA; Dr. John C. Eastman, Chapman University School of Law, Anaheim, CA; and William H. Neukom, Esq., Preston Gates & Ellis, LLP, Seattle, WA.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Wednesday, September 20, 2006, to hear the legislative presentation of The American Legion.

The hearing will take place in room 106 of the Dirksen Senate Office Building at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 20, 2006 at 3:30 p.m. to hold a closed briefing.

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

SUBCOMMITTEE ON TRADE, TOURISM, AND ECONOMIC DEVELOPMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the Subcommittee on Trade, Tourism, and Economic Development be authorized to meet on Wednesday, September 20, 2006 at 10 a.m. on Internet Governance: The Future of ICANN.

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

## SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

On Thursday, September 14, 2006, the Senate passed H.R. 4954, as follows:

H.R. 4954

*Resolved,* That the bill from the House of Representatives (H.R. 4954) entitled ''An Act

to improve maritime and cargo security through enhanced layered defenses, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the ''Port Security Improvement Act of 2006''.*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*



***SEC. 2. DEFINITIONS.***

*In this Act:*

*(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—Except as otherwise defined, the term ''appropriate congressional committees'' means—*

*(A) the Committee on Appropriations of the Senate;*

*(B) the Committee on Commerce, Science, and Transportation of the Senate;*

*(C) the Committee on Finance of the Senate;*

*(D) the Committee on Homeland Security and Governmental Affairs of the Senate;*

*(E) the Committee on Appropriations of the House of Representatives;*

*(F) the Committee on Homeland Security of the House of Representatives;*

*(G) the Committee on Transportation and Infrastructure of the House of Representatives; and*

*(H) the Committee on Ways and Means of the House of Representatives.*

*(2) COMMERCIAL SEAPORT PERSONNEL.—The term ''commercial seaport personnel'' means any*

*person engaged in an activity relating to the loading or unloading of cargo, the movement or tracking of cargo, the maintenance and repair of intermodal equipment, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when a vessel is made fast or let go, in the United States or the coastal waters of the United States.*

*(3) COMMISSIONER.—The term ''Commissioner'' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.*

*(4) CONTAINER.—The term ''container'' has the meaning given the term in the International Convention for Safe Containers, with annexes, done at Geneva, December 2, 1972 (29 UST 3707).*

*(5) CONTAINER SECURITY DEVICE.—The term ''container security device'' means a device, or system, designed, at a minimum, to identify positively a container, to detect and record the unauthorized intrusion of a container, and to secure a container against tampering throughout the supply chain. Such a device, or system, shall have a low false alarm rate as determined by the Secretary.*

*(6) DEPARTMENT.—The term ''Department'' means the Department of Homeland Security.*

*(7) EXAMINATION.—The term ''examination'' means an inspection of cargo to detect the presence of misdeclared, restricted, or prohibited items that utilizes nonintrusive imaging and detection technology.*

*(8) INSPECTION.—The term ''inspection'' means the comprehensive process used by the United States Customs and Border Protection to assess goods entering the United States to appraise them for duty purposes, to detect the presence of restricted or prohibited items, and to ensure compliance with all applicable laws. The process may include screening, conducting an examination, or conducting a search.*

*(9) INTERNATIONAL SUPPLY CHAIN.—The term ''international supply chain'' means the end-to-end process for shipping goods to or from the United States from a point of origin (including manufacturer, supplier, or vendor) through a point of distribution.*

*(10) RADIATION DETECTION EQUIPMENT.—The term ''radiation detection equipment'' means any technology that is capable of detecting or identifying nuclear and radiological material or nuclear and radiological explosive devices.*

*(11) SCAN.—The term ''scan'' means utilizing nonintrusive imaging equipment, radiation detection equipment, or both, to capture data, including images of a container.*

*(12) SCREENING.—The term ''screening'' means a visual or automated review of information about goods, including manifest or entry documentation accompanying a shipment being imported into the United States, to determine the presence of misdeclared, restricted, or prohibited items and assess the level of threat posed by such cargo.*

*(13) SEARCH.—The term ''search'' means an intrusive examination in which a container is opened and its contents are devanned and visually inspected for the presence of misdeclared, restricted, or prohibited items.*

*(14) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.*

*(15) TRANSPORTATION DISRUPTION.—The term ''transportation disruption'' means any significant delay, interruption, or stoppage in the flow of trade caused by a natural disaster, heightened threat level, an act of terrorism, or any transportation security incident defined in section 70101(6) of title 46, United States Code.*

*(16) TRANSPORTATION SECURITY INCIDENT.—The term ''transportation security incident'' has the meaning given the term in section 70101(6) of title 46, United States Code.*

## *TITLE I—SECURITY OF UNITED STATES SEAPORTS*

### *Subtitle A—General Provisions*

#### *SEC. 101. AREA MARITIME TRANSPORTATION SECURITY PLAN TO INCLUDE SALVAGE RESPONSE PLAN.*

*Section 70103(b)(2) of title 46, United States Code, is amended—*

*(1) in subparagraph (E), by striking ''and'' after the semicolon;*

*(2) by redesignating subparagraph (F) as subparagraph (G); and*

*(3) by inserting after subparagraph (E) the following:*

*''(F) include a salvage response plan—*

*''(i) to identify salvage equipment capable of restoring operational trade capacity; and*

*''(ii) to ensure that the waterways are cleared and the flow of commerce through United States ports is reestablished as efficiently and quickly as possible after a maritime transportation security incident; and''.*

#### *SEC. 102. REQUIREMENTS RELATING TO MARITIME FACILITY SECURITY PLANS.*

*Section 70103(c) of title 46, United States Code, is amended—*

*(1) in paragraph (3)—*

*(A) in subparagraph (C)(ii), by striking ''facility'' and inserting ''facility, including access by individuals engaged in the surface transportation of intermodal containers in or out of a port facility'';*

*(B) in subparagraph (E), by striking ''describe the'' and inserting ''provide a strategy and timeline for conducting'';*

*(C) in subparagraph (F), by striking ''and'' at the end;*

*(D) in subparagraph (G), by striking the period at the end and inserting ''; and''; and*

*(E) by adding at the end the following:*

*''(H) in the case of a security plan for a facility, be resubmitted for approval of each change in the ownership or operator of the facility that may substantially affect the security of the facility.''; and*

*(2) by adding at the end the following:*

*''(8)(A) The Secretary shall require that the qualified individual having full authority to implement security actions for a facility described in paragraph (2) shall be a citizen of the United States.*

*''(B) The Secretary may waive the requirement of subparagraph (A) with respect to an individual if the Secretary determines that it is appropriate to do so based on a complete background check of the individual and a review of all terrorist watch lists to ensure that the individual is not identified on any such terrorist watch list.''.*

#### *SEC. 103. UNANNOUNCED INSPECTIONS OF MARITIME FACILITIES.*

*Section 70103(c)(4)(D) of title 46, United States Code, is amended to read as follows:*

*''(D) subject to the availability of appropriations, verify the effectiveness of each such facility security plan periodically, but not less than twice annually, at least 1 of which shall be an inspection of the facility that is conducted without notice to the facility.''.*

#### *SEC. 104. TRANSPORTATION SECURITY CARD.*

*(a) IN GENERAL.—Section 70105 of title 46, United States, Code is amended by adding at the end the following:*

*''(g) APPLICATIONS FOR MERCHANT MARINER'S DOCUMENTS.—The Assistant Secretary of Homeland Security for the Transportation Security Administration and the Commandant of the Coast Guard shall concurrently process an application from an individual for merchant mariner's documents under chapter 73 of title 46, United States Code, and an application from that individual for a transportation security card under this section.*

*''(h) FEES.—The Secretary shall ensure that the fees charged each individual obtaining a transportation security card under this section who has passed a background check under section 5103a of title 49, United States Code, and who has a current and valid hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, and each individual with a current and valid Merchant Mariner Document—*

*''(1) are for costs associated with the issuance, production, and management of the transportation security card, as determined by the Secretary; and*

*''(2) do not include costs associated with performing a background check for that individual, unless the scope of said background checks diverge.*

*''(i) IMPLEMENTATION SCHEDULE.—In implementing the transportation security card program under this section, the Secretary shall—*

*''(1) conduct a strategic risk analysis and establish a priority for each United States port based on risk; and*

*''(2) implement the program, based upon risk and other factors as determined by the Secretary, at all facilities regulated under this chapter at—*

*''(A) the 10 United States ports that are deemed top priority by the Secretary not later than July 1, 2007;*

*''(B) the 40 United States ports that are next in order of priority to the ports described in subparagraph (A) not later than January 1, 2008; and*

*''(C) all other United States ports not later than January 1, 2009.*

*''(j) TRANSPORTATION SECURITY CARD PROCESSING DEADLINE.—Not later than January 1, 2009, the Secretary shall process and issue or deny each application for a transportation security card under this section for individuals with current and valid merchant mariner's documents on the date of enactment of the Port Security Improvement Act of 2006.*

*''(k) VESSEL AND FACILITY CARD READER ASSESSMENTS.—*

*''(1) PILOT PROGRAMS.—*

*''(A) VESSEL PILOT PROGRAM.—The Secretary shall conduct a pilot program in 3 distinct geographic locations to assess the feasibility of implementing card readers at secure areas of a vessel in accordance with the Notice of Proposed Rulemaking released on May 22, 2006, (TSA–2006–24191; USCG–2006–24196).*

*''(B) FACILITIES PILOT PROGRAM.—In addition to the pilot program described in subparagraph (A), the Secretary shall conduct a pilot program in 3 distinct geographic locations to assess the feasibility of implementing card readers at secure areas of facilities in a variety of environmental settings.*

*''(C) COORDINATION WITH TRANSPORTATION SECURITY CARDS.—The pilot programs described in subparagraphs (A) and (B) shall be conducted concurrently with the issuance of the transportation security cards as described in subsection (b), of this section, to ensure card and card reader interoperability.*

*''(2) DURATION.—The pilot program described in paragraph (1) shall commence not later than 180 days after the date of the enactment of the Port Security Improvement Act of 2006 and shall terminate 1 year after commencement.*

*''(3) REPORT.—Not later than 90 days after the termination of the pilot program described under subparagraph (1), the Secretary shall submit a comprehensive report to the appropriate congressional committees (as defined in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2)) that includes—*

*''(A) the actions that may be necessary to ensure that all vessels and facilities to which this section applies are able to comply with the regulations promulgated under subsection (a);*

*''(B) recommendations concerning fees and a statement of policy considerations for alternative security plans; and*

*''(C) an analysis of the viability of equipment under the extreme weather conditions of the marine environment.*

*''(l) PROGRESS REPORTS.—Not later than 6 months after the date of the enactment of the*

Port Security Improvement Act 2006 and every 6 months thereafter until the requirements under this section are fully implemented, the Secretary shall submit a report on progress being made in implementing such requirements to the appropriate congressional committees (as defined in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2)).''.

(b) CLARIFICATION OF ELIGIBILITY FOR TRANSPORTATION SECURITY CARDS.—Section 70105(b)(2) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon in subparagraph (E);

(2) by striking ''Secretary.'' in subparagraph (F) and inserting ''Secretary; and''; and

(3) by adding at the end the following:

''(G) other individuals as determined appropriate by the Secretary including individuals employed at a port not otherwise covered by this subsection.''.

(c) DEADLINE FOR SECTION 70105 REGULATIONS.—The Secretary shall promulgate final regulations implementing section 70105 of title 46, United States Code, no later than January 1, 2007. The regulations shall include a background check process to enable newly hired workers to begin working unless the Secretary makes an initial determination that the worker poses a security risk. Such process shall include a check against the consolidated and integrated terrorist watch list maintained by the Federal Government.

**SEC. 105. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.**

Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking ''decides that the individual poses a security risk under subsection (c)'' and inserting ''determines under subsection (c) that the individual poses a security risk''; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

''(1) DISQUALIFICATIONS.—

''(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is permanently disqualified from being issued a transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

''(i) Espionage or conspiracy to commit espionage.

''(ii) Sedition or conspiracy to commit sedition.

''(iii) Treason or conspiracy to commit treason.

''(iv) A crime listed in chapter 113B of title 18, a comparable State law, or conspiracy to commit such crime.

''(v) A crime involving a transportation security incident. In this clause, a transportation security incident—

''(I) is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area (as defined in section 70101 of title 46); and

''(II) does not include a work stoppage or other nonviolent employee-related action, resulting from an employer-employee dispute.

''(vi) Improper transportation of a hazardous material under section 5124 of title 49, or a comparable State law;.

''(vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipping, transporting, import, export, storage of, or dealing in an explosive or incendiary device (as defined in section 232(5) of title 18, explosive materials (as defined in section 841(c) of title 18), or a destructive device (as defined in 921(a)(4) of title 18).

''(viii) Murder.

''(ix) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (viii).

''(x) A violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. 1961 et seq.), or a comparable State law, if 1 of the predicate acts found by a jury or admitted by the defendant consists of 1 of the offenses listed in clauses (iv) and (viii).

''(xi) Any other felony that the Secretary determines to be a permanently disqualifying criminal offense.

''(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such or card, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such a card, of any of the following felonies:

''(i) Assault with intent to murder.

''(ii) Kidnapping or hostage taking.

''(iii) Rape or aggravated sexual abuse.

''(iv) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipping, transporting, delivery, import, export of, or dealing in a firearm or other weapon. In this clause, a firearm or other weapon includes, but is not limited to—

''(I) firearms (as defined in section 921(a)(3) of title 18); and

''(II) items contained on the United States Munitions Import List under 447.21 of title 27 Code of Federal Regulations.

''(v) Extortion.

''(vi) Dishonesty, fraud, or misrepresentation, including identity fraud.

''(vii) Bribery.

''(viii) Smuggling.

''(ix) Immigration violations.

''(x) A violation of the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. 1961, et seq.) or a comparable State law, other than a violation listed in subparagraph (A)(x).

''(xi) Robbery.

''(xii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

''(xiii) Arson.

''(xiv) Conspiracy or attempt to commit any of the crimes in this subparagraph.

''(xv) Any other felony that the Secretary determines to be a disqualifying criminal offense under this subparagraph.

''(C) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) and (B), an individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

''(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

''(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

''(II) for causing a severe transportation security incident;

''(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

''(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

''(iv) otherwise poses a terrorism security risk to the United States.''.

**SEC. 106. LONG-RANGE VESSEL TRACKING.**

(a) REGULATIONS.—Section 70115 of title 46, United States Code, is amended in the first sentence by striking ''The Secretary'' and inserting ''Not later than April 1, 2007, the Secretary''.

(b) VOLUNTARY PROGRAM.—The Secretary may issue regulations to establish a voluntary long-range automated vessel tracking system for vessels described in section 70115 of title 46, United States Code, during the period before regulations are issued under such section.

**SEC. 107. ESTABLISHMENT OF INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.**

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by inserting after section 70107 the following:

***''§ 70107A. Interagency operational centers for port security***

''(a) IN GENERAL.—The Secretary shall establish interagency operational centers for port security at all high-priority ports not later than 3 years after the date of the enactment of the Port Security Improvement Act of 2006.

''(b) CHARACTERISTICS.—The interagency operational centers established under this section shall—

''(1) utilize, as appropriate, the compositional and operational characteristics of centers, including—

''(A) the pilot project interagency operational centers for port security in Miami, Florida; Norfolk/Hampton Roads, Virginia; Charleston, South Carolina; San Diego, California; and

''(B) the virtual operation center of the Port of New York and New Jersey;

''(2) be organized to fit the security needs, requirements, and resources of the individual port area at which each is operating;

''(3) provide, as the Secretary determines appropriate, for participation by representatives of the United States Customs and Border Protection, the Transportation Security Administration, the Department of Justice, the Department of Defense, and other Federal agencies, State and local law enforcement or port security personnel, members of the Area Maritime Security Committee, and other public and private sector stakeholders adversely affected by a transportation security incident or transportation disruption; and

''(4) be incorporated in the implementation and administration of—

''(A) maritime transportation security plans developed under section 70103;

''(B) maritime intelligence activities under section 70113 and information sharing activities consistent with section 1016 of the National Security Intelligence Reform Act of 2004 (6 U.S.C. 485) and the Homeland Security Information Sharing Act (6 U.S.C. 481 et seq.);

''(C) short and long range vessel tracking under sections 70114 and 70115;

''(D) protocols under section 201(b)(10) of the Port Security Improvement Act of 2006;

''(E) the transportation security incident response plans required by section 70104; and

''(F) other activities, as determined by the Secretary.

''(c) SECURITY CLEARANCES.—The Secretary shall sponsor and expedite individuals participating in interagency operational centers in gaining or maintaining their security clearances. Through the Captain of the Port, the Secretary may identify key individuals who should participate. The port or other entities may appeal to the Captain of the Port for sponsorship.''.

(b) 2005 ACT REPORT REQUIREMENT.—Nothing in this section or the amendments made by this section relieves the Commandant of the Coast Guard from complying with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108–293; 118 Stat. 1082). The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

(c) BUDGET AND COST-SHARING ANALYSIS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a proposed budget analysis for implementing section 70107A of title 46, United States Code, as added by subsection (a), including cost-sharing arrangements with other Federal departments

*and agencies involved in the interagency operation of the centers to be established under such section.*

*(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by inserting after the item relating to section 70107 the following:*

*''70107A. Interagency operational centers for port security.''.*

***SEC. 108. NOTICE OF ARRIVAL FOR FOREIGN VESSELS ON THE OUTER CONTINENTAL SHELF.***

*(a) NOTICE OF ARRIVAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary is directed to update and finalize its rulemaking on Notice of Arrival for foreign vessels on the outer Continental Shelf.*

*(b) CONTENT OF REGULATIONS.—The regulations promulgated pursuant to paragraph (1) shall be consistent with information required under the Notice of Arrival under section 160.206 of title 33, Code of Federal Regulations, as in effect on the date of the enactment of this Act.*

***Subtitle B—Port Security Grants; Training and Exercise Programs***

***SEC. 111. PORT SECURITY GRANTS.***

*(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking ''for making a fair and equitable allocation of funds'' and inserting ''for the allocation of funds based on risk''.*

*(b) RISK MANAGEMENT PLAN.—*

*(1) IN GENERAL.—Under the direction of the Commandant of the Coast Guard, each Area Maritime Security Committee shall develop a Port Wide Risk Management Plan that includes—*

*(A) security goals and objectives, supported by a risk assessment and an evaluation of alternatives;*

*(B) a management selection process; and*

*(C) active monitoring to measure effectiveness.*

*(2) RISK ASSESSMENT TOOL.—The Secretary of the Department in which the Coast Guard is operating, shall make available, and Area Maritime Security Committees shall use, a risk assessment tool that uses standardized risk criteria, such as the Maritime Security Risk Assessment Tool used by the Coast Guard, to develop the Port Wide Risk Management Plan.*

*(c) MULTIPLE-YEAR PROJECTS, ETC.—Section 70107 of title 46, United States Code, is amended by redesignating subsections (e), (f), (g), (h), and (i) as subsections (i), (j), (k), (l), and (m), respectively, and by inserting after subsection (d) the following:*

*''(e) MULTIPLE-YEAR PROJECTS.—*

*''(1) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to such authorities, operators, and agencies.*

*''(2) LIMITATION.—Not more than 20 percent of the grant funds awarded under this subsection in any fiscal year may be awarded for projects that span multiple years.*

*''(f) CONSISTENCY WITH PLANS.—The Secretary shall ensure that each grant awarded under subsection (e)—*

*''(1) is used to supplement and support, in a consistent and coordinated manner, the applicable Area Maritime Transportation Security Plan;*

*''(2) is coordinated with any applicable State or Urban Area Homeland Security Plan; and*

*''(3) is consistent with the Port Wide Risk Management Plan developed under section 111(b) of the Port Security Improvement Act of 2006.*

*''(g) APPLICATIONS.—Any entity subject to an Area Maritime Transportation Security Plan may submit an application for a grant under this subsection, at such time, in such form, and containing such information and assurances as the Secretary, working through the Directorate for Preparedness, may require.*

*''(h) REPORTS.—Not later than 180 days after the date of the enactment of the Port Security Improvement Act of 2006, the Secretary, acting through the Commandant of the Coast Guard, shall submit a report to Congress, in a secure format, describing the methodology used to allocate port security grant funds on the basis of risk.''.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—Subsection (l) of section 70107 of title 46, United States Code, as redesignated by subsection (b) is amended to read as follows:*

*''(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.''.*

*(e) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by inserting '', energy'' between ''national economic'' and ''and strategic defense concerns.''.*

*(f) CONTAINER SCANNING TECHNOLOGY GRANT PROGRAM.—*

*(1) NUCLEAR AND RADIOLOGICAL DETECTION DEVICES.—Section 70107(m)(1)(C) of title 46, United States Code, as redesignated by subsection (b), is amended by inserting '', underwater or water surface devices, devices that can be mounted on cranes and straddle cars used to move cargo within ports, and scanning and imaging technology'' before the semicolon at the end.*

*(2) USE OF FUNDS.—Amounts appropriated pursuant to this section shall be used for grants to be awarded in a competitive process to public or private entities for the purpose of researching and developing nuclear and radiological detection equipment described in section 70107(m)(1)(C) of title 46, United States Code, as amended by this section.*

*(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated a total of $70,000,000 for fiscal years 2008 through 2009 for the purpose of researching and developing nuclear and radiological detection equipment described in section 70107(m)(1)(C) of title 46, United States Code, as amended by this section.*

***SEC. 112. PORT SECURITY TRAINING PROGRAM.***

*(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Preparedness and in coordination with the Commandant of the Coast Guard, shall establish a Port Security Training Program (referred to in this section as the ''Program'') for the purpose of enhancing the capabilities of each of the commercial seaports of the United States to prevent, prepare for, respond to, mitigate against, and recover from threatened or actual acts of terrorism, natural disasters, and other emergencies.*

*(b) REQUIREMENTS.—The Program shall provide validated training that—*

*(1) reaches multiple disciplines, including Federal, State, and local government officials, commercial seaport personnel and management, and governmental and nongovernmental emergency response providers;*

*(2) provides training at the awareness, performance, and management and planning levels;*

*(3) utilizes multiple training mediums and methods;*

*(4) addresses port security topics, including—*

*(A) seaport security plans and procedures, including how security plans and procedures are adjusted when threat levels increase;*

*(B) seaport security force operations and management;*

*(C) physical security and access control at seaports;*

*(D) methods of security for preventing and countering cargo theft;*

*(E) container security;*

*(F) recognition and detection of weapons, dangerous substances, and devices;*

*(G) operation and maintenance of security equipment and systems;*

*(H) security threats and patterns;*

*(I) security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers; and*

*(J) evacuation procedures;*

*(5) is consistent with, and supports implementation of, the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;*

*(6) is evaluated against clear and consistent performance measures;*

*(7) addresses security requirements under facility security plans; and*

*(8) educates, trains, and involves populations of at-risk neighborhoods around ports, including training on an annual basis for neighborhoods to learn what to be watchful for in order to be a ''citizen corps'', if necessary.*

*(c) TRAINING PARTNERS.—In developing and delivering training under the Program, the Secretary, in coordination with the Maritime Administration of the Department of Transportation, and consistent with section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note), shall—*

*(1) work with government training facilities, academic institutions, private organizations, employee organizations, and other entities that provide specialized, state-of-the-art training for governmental and non-governmental emergency responder providers or commercial seaport personnel and management; and*

*(2) utilize, as appropriate, government training facilities, courses provided by community colleges, public safety academies, State and private universities, and other facilities.*

***SEC. 113. PORT SECURITY EXERCISE PROGRAM.***

*(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Preparedness and in coordination with the Commandant of the Coast Guard, may establish a Port Security Exercise Program (referred to in this section as the ''Program'') for the purpose of testing and evaluating the capabilities of Federal, State, local, and foreign governments, commercial seaport personnel and management, governmental and nongovernmental emergency response providers, the private sector, or any other organization or entity, as the Secretary determines to be appropriate, to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism, natural disasters, and other emergencies at commercial seaports.*

*(b) REQUIREMENTS.—The Secretary shall ensure that the Program—*

*(1) conducts, on a periodic basis, port security exercises at commercial seaports that are—*

*(A) scaled and tailored to the needs of each port;*

*(B) live, in the case of the most at-risk ports;*

*(C) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;*

*(D) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;*

*(E) evaluated against clear and consistent performance measures;*

*(F) assessed to learn best practices, which shall be shared with appropriate Federal, State, and local officials, seaport personnel and management, governmental and nongovernmental emergency response providers, and the private sector; and*

*(G) followed by remedial action in response to lessons learned; and*

*(2) assists State and local governments and commercial seaports in designing, implementing, and evaluating exercises that—*

*(A) conform to the requirements of paragraph (1); and*

*(B) are consistent with any applicable Area Maritime Transportation Security Plan and State or Urban Area Homeland Security Plan.*

(c) IMPROVEMENT PLAN.—The Secretary shall establish a port security improvement plan process to—

(1) identify and analyze each port security exercise for lessons learned and best practices;

(2) disseminate lessons learned and best practices to participants in the Program;

(3) monitor the implementation of lessons learned and best practices by participants in the Program; and

(4) conduct remedial action tracking and long-term trend analysis.

### Subtitle C—Port Operations

#### SEC. 121. DOMESTIC RADIATION DETECTION AND IMAGING.

(a) EXAMINING CONTAINERS.—Not later than December 31, 2007, all containers entering the United States through the busiest 22 seaports of entry shall be examined for radiation.

(b) STRATEGY.—The Secretary shall develop a strategy for the deployment of radiation detection capabilities that includes—

(1) a risk-based prioritization of ports of entry at which radiation detection equipment will be deployed;

(2) a proposed timeline of when radiation detection equipment will be deployed at each port of entry identified under paragraph (1);

(3) the type of equipment to be used at each port of entry identified under paragraph (1), including the joint deployment and utilization of radiation detection equipment and nonintrusive imaging equipment;

(4) standard operating procedures for examining containers with such equipment, including sensor alarming, networking, and communications and response protocols;

(5) operator training plans;

(6) an evaluation of the environmental health and safety impacts of nonintrusive imaging technology;

(7) the policy of the Department for using nonintrusive imagining equipment in tandem with radiation detection equipment; and

(8) a classified annex that—

(A) details plans for covert testing; and

(B) outlines the risk-based prioritization of ports of entry identified under paragraph (1).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit the strategy developed under subsection (b) to the appropriate congressional committees.

(d) UPDATE.—Not later than 180 days after the date of the enactment of this Act, the Secretary may update the strategy submitted under subsection (c) to provide a more complete evaluation under subsection (b)(6).

(e) OTHER WEAPONS OF MASS DESTRUCTION THREATS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a strategy for the development of equipment to detect chemical, biological, and other weapons of mass destruction at all ports of entry into the United States to the appropriate congressional committees.

(f) STANDARDS.—The Secretary, in conjunction with the National Institute of Standards and Technology, shall publish technical capability standards and recommended standard operating procedures for the use of nonintrusive imaging and radiation detection equipment in the United States. Such standards and procedures—

(1) should take into account relevant standards and procedures utilized by other Federal departments or agencies as well as those developed by international bodies; and

(2) shall not be designed so as to endorse specific companies or create sovereignty conflicts with participating countries.

(g) IMPLEMENTATION.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall fully implement the strategy developed under subsection (b).

(h) EXPANSION TO OTHER UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—As soon as practicable after—

(A) implementation of the program for the examination of containers for radiation at ports of entry described in subsection (a), and

(B) submission of the strategy developed under subsection (b) (and updating, if any, of that strategy under subsection (c)),

but no later than December 31, 2008, the Secretary shall expand the strategy developed under subsection (b), in a manner consistent with the requirements of subsection (b), to provide for the deployment of radiation detection capabilities at all other United States ports of entry not covered by the strategy developed under subsection (b).

(2) RISK ASSESSMENT.—In expanding the strategy under paragraph (1), the Secretary shall identify and assess the risks to those other ports of entry in order to determine what equipment and practices will best mitigate the risks.

(i) INTERMODAL RAIL RADIATION DETECTION TEST CENTER.—

(1) ESTABLISHMENT.—In accordance with subsection (b), and in order to comply with this section, the Secretary shall establish Intermodal Rail Radiation Detection Test Centers (referred to in this subsection as the ''Test Centers'').

(2) PROJECTS.—The Secretary shall conduct multiple, concurrent projects at the Test Center to rapidly identify and test concepts specific to the challenges posed by on-dock rail.

(3) LOCATION.—The Test Centers shall be located within public port facilities which have a significant portion of the containerized cargo directly laden from (or unladen to) on-dock, intermodal rail, including at least one public port facility at which more than 50 percent of the containerized cargo is directly laden from (or unladen to) on-dock, intermodal rail.

#### SEC. 122. PORT SECURITY USER FEE STUDY.

The Secretary shall conduct a study of the need for, and feasibility of, establishing a system of oceanborne and port-related transportation user fees that may be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for legitimate improvements to, and maintenance of, port security. Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that contains—

(1) the results of the study;

(2) an assessment of the annual amount of customs fees and duties collected through oceanborne and port-related transportation and the amount and percentage of such fees and duties that are dedicated to improve and maintain security;

(3)(A) an assessment of the fees, charges, and standards imposed on United States ports, port terminal operators, shippers, and persons who use United States ports, compared with the fees and charges imposed on ports and port terminal operators in Canada and Mexico and persons who use those foreign ports; and

(B) an assessment of the impact on the competitiveness of United States ports, port terminal operators, and shippers; and

(4) the Secretary's recommendations based upon the study, and an assessment of the consistency of such recommendations with the international obligations and commitments of the United States.

#### SEC. 123. INSPECTION OF CAR FERRIES ENTERING FROM ABROAD.

Not later than 120 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, and in coordination with the Secretary of State and in cooperation with ferry operators and appropriate foreign government officials, shall seek to develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States seaport.

#### SEC. 124. RANDOM SEARCHES OF CONTAINERS.

Not later than 1 year after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall develop and implement a plan, utilizing best practices for empirical scientific research design and random sampling, to conduct random searches of containers in addition to any targeted or preshipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Secretary. Nothing in this section shall be construed to mean that implementation of the random sampling plan precludes additional searches of containers not inspected pursuant to the plan.

#### SEC. 125. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.

Section 70101(6) of title 46, United States Code, is amended by adding at the end the following: ''In this paragraph, the term 'economic disruption' does not include a work stoppage or other nonviolent employee-related action not related to terrorism and resulting from an employee-employer dispute.''.

#### SEC. 126. THREAT ASSESSMENT SCREENING OF PORT TRUCK DRIVERS.

Subject to the availability of appropriations, within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a threat assessment screening, including name-based checks against terrorist watch lists and immigration status check, for all port truck drivers that is the same as the threat assessment screening required for facility employees and longshoremen by the Commandant of the Coast Guard under Coast Guard Notice USCG–2006–24189 (Federal Register, Vol. 71, No. 82, Friday, April 28, 2006).

## TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

### Subtitle A—General Provisions

#### SEC. 201. STRATEGIC PLAN TO ENHANCE THE SECURITY OF THE INTERNATIONAL SUPPLY CHAIN.

(a) STRATEGIC PLAN.—The Secretary, in consultation with appropriate Federal, State, local, and tribal government agencies and private-sector stakeholders responsible for security matters that affect or relate to the movement of containers through the international supply chain, shall develop, implement, and update, as appropriate, a strategic plan to enhance the security of the international supply chain.

(b) REQUIREMENTS.—The strategic plan required under subsection (a) shall—

(1) describe the roles, responsibilities, and authorities of Federal, State, local, and tribal government agencies and private-sector stakeholders that relate to the security of the movement of containers through the international supply chain;

(2) identify and address gaps and unnecessary overlaps in the roles, responsibilities, or authorities described in paragraph (1);

(3) identify and make recommendations regarding legislative, regulatory, and organizational changes necessary to improve coordination among the entities or to enhance the security of the international supply chain;

(4) provide measurable goals, including objectives, mechanisms, and a schedule, for furthering the security of commercial operations from point of origin to point of destination;

(5) build on available resources and consider costs and benefits;

(6) provide incentives for additional voluntary measures to enhance cargo security, as determined by the Commissioner;

(7) consider the impact of supply chain security requirements on small and medium size companies;

(8) include a process for sharing intelligence and information with private-sector stakeholders to assist in their security efforts;

(9) identify a framework for prudent and measured response in the event of a transportation security incident involving the international supply chain;

(10) provide protocols for the expeditious resumption of the flow of trade in accordance with section 202, including—

(A) the identification of the appropriate initial incident commander, if the Commandant of the Coast Guard is not the appropriate initial incident commander, and lead departments, agencies, or offices to execute such protocols;

(B) a plan to redeploy resources and personnel, as necessary, to reestablish the flow of trade in the event of a transportation disruption; and

(C) a plan to provide training for the periodic instruction of personnel of the United States Customs and Border Protection in trade resumption functions and responsibilities following a transportation disruption;

(11) consider the linkages between supply chain security and security programs within other systems of movement, including travel security and terrorism finance programs; and

(12) expand upon and relate to existing strategies and plans, including the National Response Plan, National Maritime Transportation Security Plan, and the 8 supporting plans of the Strategy, as required by Homeland Security Presidential Directive 13.

(c) CONSULTATION.—In developing protocols under subsection (b)(10), the Secretary shall consult with Federal, State, local, and private sector stakeholders, including the National Maritime Security Advisory Committee and the Commercial Operations Advisory Committee.

(d) COMMUNICATION.—To the extent practicable, the strategic plan developed under subsection (a) shall provide for coordination with, and lines of communication among, appropriate Federal, State, local, and private-sector stakeholders on law enforcement actions, intermodal rerouting plans, and other strategic infrastructure issues resulting from a transportation security incident or transportation disruption.

(e) UTILIZATION OF ADVISORY COMMITTEES.—As part of the consultations described in subsection (a), the Secretary shall, to the extent practicable, utilize the Homeland Security Advisory Committee, the National Maritime Security Advisory Committee, and the Commercial Operations Advisory Committee to review, as necessary, the draft strategic plan and any subsequent updates to the strategic plan.

(f) INTERNATIONAL STANDARDS AND PRACTICES.—In furtherance of the strategic plan required under subsection (a), the Secretary is encouraged to consider proposed or established standards and practices of foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, and the International Organization for Standardization, as appropriate, to establish standards and best practices for the security of containers moving through the international supply chain.

(g) REPORT.—

(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report that contains the strategic plan required by subsection (a).

(2) FINAL REPORT.—Not later than 3 years after the date on which the strategic plan is submitted under paragraph (1), the Secretary shall submit a report to the appropriate congressional committees that contains an update of the strategic plan.

**SEC. 202. POST INCIDENT RESUMPTION OF TRADE.**

(a) IN GENERAL.—Except as otherwise determined by the Secretary, in the event of a maritime transportation disruption or a maritime transportation security incident, the initial incident commander and the lead department, agency, or office for carrying out the strategic plan required under section 201 shall be determined by the protocols required under section 201(b)(10).

(b) VESSELS.—The Commandant of the Coast Guard shall, to the extent practicable and consistent with the protocols and plans required under paragraphs (10) and (12) of section 201(b), ensure the safe and secure transit of vessels to ports in the United States after a maritime transportation security incident, with priority given to vessels carrying cargo determined by the President to be critical for response and recovery from such a disruption or incident, and to vessels that—

(1) have either a vessel security plan approved under section 70103(c) of title 46, United States Code, or a valid international ship security certificate, as provided under part 104 of title 33, Code of Federal Regulations;

(2) are manned by individuals who are described in section 70105(b)(2)(B) of title 46, United States Code, and who—

(A) have undergone a background records check under section 70105(d) of title 46, United States Code; or

(B) hold a transportation security card issued under section 70105 of title 46, United States Code; and

(3) are operated by validated participants in the Customs-Trade Partnership Against Terrorism program.

(c) CARGO.—Consistent with the protocols and plans required under paragraphs (10) and (12) of section 201(b), the Commissioner shall give preference to cargo—

(1) entering a port of entry directly from a foreign seaport designated under the Container Security Initiative;

(2) determined by the President to be critical for response and recovery;

(3) that has been handled by a validated C–TPAT participant; or

(4) that has undergone (A) a nuclear or radiological detection scan, (B) an x-ray, density or other imaging scan, and (C) an optical recognition scan, at the last port of departure prior to arrival in the United States, which data has been evaluated and analyzed by United States Customs and Border Protection personnel.

(d) COORDINATION.—The Secretary shall ensure that there is appropriate coordination among the Commandant of the Coast Guard, the Commissioner, and other Federal officials following a maritime disruption or maritime transportation security incident in order to provide for the resumption of trade.

(e) COMMUNICATION.—Consistent with section 201 of this Act, the Commandant of the Coast Guard, Commissioner, and other appropriate Federal officials, shall promptly communicate any revised procedures or instructions intended for the private sector following a maritime disruption or maritime transportation security incident.

**SEC. 203. AUTOMATED TARGETING SYSTEM.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall—

(1) identify and seek the submission of data related to the movement of a shipment of cargo through the international supply chain; and

(2) analyze the data described in paragraph (1) to identify high-risk cargo for inspection.

(b) CONSIDERATION.—The Secretary, acting through the Commissioner, shall—

(1) consider the cost, benefit, and feasibility of—

(A) requiring additional nonmanifest documentation;

(B) reducing the time period allowed by law for revisions to a container cargo manifest;

(C) reducing the time period allowed by law for submission of certain elements of entry data, for vessel or cargo; and

(D) such other actions the Secretary considers beneficial for improving the information relied upon for the Automated Targeting System and any successor targeting system in furthering the security and integrity of the international supply chain; and

(2) consult with stakeholders, including the Commercial Operations Advisory Committee, and identify to them the need for such information, and the appropriate timing of its submission.

(c) DETERMINATION.—Upon the completion of the process under subsection (b), the Secretary, acting through the Commissioner, may require importers to submit certain elements of nonmanifest or other data about a shipment bound for the United States not later than 24 hours before loading a container on a vessel at a foreign port bound for the United States.

(d) SYSTEM IMPROVEMENTS.—The Secretary, acting through the Commissioner, shall—

(1) conduct, through an independent panel, a review of the effectiveness and capabilities of the Automated Targeting System;

(2) consider future iterations of the Automated Targeting System;

(3) ensure that the Automated Targeting System has the capability to electronically compare manifest and other available data for cargo entered into or bound for the United States to detect any significant anomalies between such data and facilitate the resolution of such anomalies; and

(4) ensure that the Automated Targeting System has the capability to electronically identify, compile, and compare select data elements for cargo entered into or bound for the United States following a maritime transportation security incident, in order to efficiently identify cargo for increased inspection or expeditious release.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the United States Customs and Border Protection in the Department of Homeland Security to carry out the Automated Targeting System for identifying high-risk oceanborne container cargo for inspection—

(A) $33,200,000 for fiscal year 2008;

(B) $35,700,000 for fiscal year 2009; and

(C) $37,485,000 for fiscal year 2010.

(2) SUPPLEMENT FOR OTHER FUNDS.—The amounts authorized by this subsection shall be in addition to any other amount authorized to be appropriated to carry out the Automated Targeting System.

**SEC. 204. CONTAINER SECURITY STANDARDS AND PROCEDURES.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to establish minimum standards and procedures for securing containers in transit to an importer in the United States.

(2) INTERIM RULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue an interim final rule pursuant to the proceeding described in paragraph (1).

(3) MISSED DEADLINE.—If the Secretary is unable to meet the deadline established pursuant to paragraph (2), the Secretary shall transmit a letter to the appropriate congressional committees explaining why the Secretary is unable to meet that deadline and describing what must be done before such minimum standards and procedures can be established.

(b) REVIEW AND ENHANCEMENT.—The Secretary shall regularly review and enhance the standards and procedures established pursuant to subsection (a).

(c) INTERNATIONAL CARGO SECURITY STANDARDS.—The Secretary, in consultation with the Secretary of State, the Secretary of Energy, and other government officials, as appropriate, and with the Commercial Operations Advisory Committee, the Homeland Security Advisory Committee, and the National Maritime Security Advisory Committee, is encouraged to promote and establish international standards for the security of containers moving through the international supply chain with foreign governments and international organizations, including the International Maritime Organization and the World Customs Organization.

**SEC. 205. CONTAINER SECURITY INITIATIVE.**

(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall establish and implement a program (referred to in this section

*as the ''Container Security Initiative'') to identify and examine or search maritime containers that pose a security risk before loading such containers in a foreign port for shipment to the United States, either directly or through a foreign port.*

*(b) ASSESSMENT.—The Secretary, acting through the Commissioner, may designate foreign seaports to participate in the Container Security Initiative after the Secretary has assessed the costs, benefits, and other factors associated with such designation, including—*

*(1) the level of risk for the potential compromise of containers by terrorists, or other threats as determined by the Secretary;*

*(2) the volume and value of cargo being imported to the United States directly from, or being transshipped through, the foreign seaport;*

*(3) the results of the Coast Guard assessments conducted pursuant to section 70108 of title 46, United States Code;*

*(4) the commitment of the government of the country in which the foreign seaport is located to cooperate with the Department to carry out the Container Security Initiative; and*

*(5) the potential for validation of security practices at the foreign seaport by the Department.*

*(c) NOTIFICATION.—The Secretary shall notify the appropriate congressional committees of the designation of a foreign port under the Container Security Initiative or the revocation of such a designation before notifying the public of such designation or revocation.*

*(d) NEGOTIATIONS.—The Secretary, in cooperation with the Secretary of State and in consultation with the United States Trade Representative, may enter into negotiations with the government of each foreign nation in which a seaport is designated under the Container Security Initiative to ensure full compliance with the requirements under the Container Security Initiative.*

*(e) OVERSEAS INSPECTIONS.—The Secretary shall establish minimum technical capability criteria and standard operating procedures for the use of nonintrusive imaging and radiation detection equipment in conjunction with the Container Security Initiative and shall monitor operations at foreign seaports designated under the Container Security Initiative to ensure the use of such criteria and procedures. Such criteria and procedures—*

*(1) shall be consistent with relevant standards and procedures utilized by other Federal departments or agencies, or developed by international bodies if the United States consents to such standards and procedures;*

*(2) shall not apply to activities conducted under the Megaports Initiative of the Department of Energy;*

*(3) shall not be designed to endorse the product or technology of any specific company or to conflict with the sovereignty of a country in which a foreign seaport designated under the Container Security Initiative is located; and*

*(4) shall be applied to the equipment operated at each foreign seaport designated under the Container Security Initiative, except as provided under paragraph (2).*

*(f) SAVINGS PROVISION.—The authority of the Secretary under this section shall not affect any authority or duplicate any efforts or responsibilities of the Federal Government with respect to the deployment of radiation detection equipment outside of the United States.*

*(g) COORDINATION.—The Secretary shall coordinate with the Secretary of Energy to—*

*(1) provide radiation detection equipment required to support the Container Security Initiative through the Department of Energy's Second Line of Defense and Megaports programs; or*

*(2) work with the private sector to obtain radiation detection equipment that meets both the Department's and the Department of Energy's technical specifications for such equipment.*

*(h) STAFFING.—The Secretary shall develop a human capital management plan to determine adequate staffing levels in the United States and in foreign seaports including, as appropriate, the remote location of personnel in countries in which foreign seaports are designated under the Container Security Initiative.*

*(i) ANNUAL DISCUSSIONS.—The Secretary, in coordination with the appropriate Federal officials, shall hold annual discussions with foreign governments of countries in which foreign seaports designated under the Container Security Initiative are located regarding best practices, technical assistance, training needs, and technological developments that will assist in ensuring the efficient and secure movement of international cargo.*

*(j) LESSER RISK PORT.—The Secretary, acting through the Commissioner, may treat cargo loaded in a foreign seaport designated under the Container Security Initiative as presenting a lesser risk than similar cargo loaded in a foreign seaport that is not designated under the Container Security Initiative, for the purpose of clearing such cargo into the United States.*

*(k) REPORT.—*

*(1) IN GENERAL.—Not later than September 30, 2007, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit a report to the appropriate congressional committee on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The report shall include—*

*(A) a description of the technical assistance delivered to, as well as needed at, each designated seaport;*

*(B) a description of the human capital management plan at each designated seaport;*

*(C) a summary of the requests made by the United States to foreign governments to conduct physical or nonintrusive inspections of cargo at designated seaports, and whether each such request was granted or denied by the foreign government;*

*(D) an assessment of the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports and the effect on the flow of commerce at such seaports, as well as any recommendations for improving the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports;*

*(E) a description and assessment of the outcome of any security incident involving a foreign seaport designated under the Container Security Initiative; and*

*(F) a summary and assessment of the aggregate number and extent of trade compliance lapses at each seaport designated under the Container Security Initiative.*

*(2) UPDATED REPORT.—Not later than September 30, 2010, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit an updated report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The updated report shall address each of the elements required to be included in the report provided for under paragraph (1).*

*(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Customs and Border Protection in the Department of Homeland Security to carry out the provisions of this section—*

*(1) $144,000,000 for fiscal year 2008;*

*(2) $146,000,000 for fiscal year 2009; and*

*(3) $153,300,000 for fiscal year 2010.*

### *Subtitle B—Customs-Trade Partnership Against Terrorism*

***SEC. 211. ESTABLISHMENT.***

*(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, is authorized to establish a voluntary government-private sector program (to be known as the ''Customs-Trade Partnership Against Terrorism'' or ''C–TPAT'') to strengthen and improve the overall security of the international supply chain and United States border security, and to facilitate the movement of secure cargo through the international supply chain, by providing benefits to participants meeting or exceeding the program requirements. Participants in C–TPAT shall include tier 1 participants, tier 2 participants, and tier 3 participants.*

*(b) MINIMUM SECURITY REQUIREMENTS.—The Secretary, acting through the Commissioner, shall review the minimum security requirements of C–TPAT at least once every year and update such requirements as necessary.*

***SEC. 212. ELIGIBLE ENTITIES.***

*Importers, customs brokers, forwarders, air, sea, land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply to voluntarily enter into partnerships with the Department under C–TPAT.*

***SEC. 213. MINIMUM REQUIREMENTS.***

*An applicant seeking to participate in C–TPAT shall—*

*(1) demonstrate a history of moving cargo in the international supply chain;*

*(2) conduct an assessment of its supply chain based upon security criteria established by the Secretary, acting through the Commissioner, including—*

*(A) business partner requirements;*

*(B) container security;*

*(C) physical security and access controls;*

*(D) personnel security;*

*(E) procedural security;*

*(F) security training and threat awareness; and*

*(G) information technology security;*

*(3) implement and maintain security measures and supply chain security practices meeting security criteria established by the Commissioner; and*

*(4) meet all other requirements established by the Commissioner in consultation with the Commercial Operations Advisory Committee.*

***SEC. 214. TIER 1 PARTICIPANTS IN C–TPAT.***

*(a) BENEFITS.—The Secretary, acting through the Commissioner, shall offer limited benefits to a tier 1 participant who has been certified in accordance with the guidelines referred to in subsection (b). Such benefits may include a reduction in the score assigned pursuant to the Automated Targeting System of not greater than 20 percent of the high risk threshold established by the Secretary.*

*(b) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall update the guidelines for certifying a C–TPAT participant's security measures and supply chain security practices under this section. Such guidelines shall include a background investigation and extensive documentation review.*

*(c) TIME FRAME.—To the extent practicable, the Secretary, acting through the Commissioner, shall complete the tier 1 certification process within 90 days of receipt of an application for participation in C–TPAT.*

***SEC. 215. TIER 2 PARTICIPANTS IN C–TPAT.***

*(a) VALIDATION.—The Secretary, acting through the Commissioner, shall validate the security measures and supply chain security practices of a tier 1 participant in accordance with the guidelines referred to in subsection (c). Such validation shall include on-site assessments at appropriate foreign locations utilized by the tier 1 participant in its supply chain and shall, to the extent practicable, be completed not later than 1 year after certification as a tier 1 participant.*

*(b) BENEFITS.—The Secretary, acting through the Commissioner, shall extend benefits to each C–TPAT participant that has been validated as a tier 2 participant under this section, which may include—*

*(1) reduced scores in the Automated Targeting System;*

(2) reduced examinations of cargo; and
(3) priority searches of cargo.

(c) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall develop a schedule and update the guidelines for validating a participant's security measures and supply chain security practices under this section.

**SEC. 216. TIER 3 PARTICIPANTS IN C–TPAT.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall establish a third tier of C–TPAT participation that offers additional benefits to participants who demonstrate a sustained commitment to maintaining security measures and supply chain security practices that exceed the guidelines established for validation as a tier 2 participant in C–TPAT under section 215 of this Act.

(b) CRITERIA.—The Secretary, acting through the Commissioner, shall designate criteria for validating a C–TPAT participant as a tier 3 participant under this section. Such criteria may include—

(1) compliance with any additional guidelines established by the Secretary that exceed the guidelines established pursuant to section 215 of this Act for validating a C–TPAT participant as a tier 2 participant, particularly with respect to controls over access to cargo throughout the supply chain;

(2) voluntary submission of additional information regarding cargo prior to loading, as determined by the Secretary;

(3) utilization of container security devices and technologies that meet standards and criteria established by the Secretary; and

(4) compliance with any other cargo requirements established by the Secretary.

(c) BENEFITS.—The Secretary, acting through the Commissioner, in consultation with the Commercial Operations Advisory Committee and the National Maritime Security Advisory Committee, shall extend benefits to each C–TPAT participant that has been validated as a tier 3 participant under this section, which may include—

(1) the expedited release of a tier 3 participant's cargo in destination ports within the United States during all threat levels designated by the Secretary;

(2) in addition to the benefits available to tier 2 participants—

(A) further reduction in examinations of cargo;

(B) priority for examinations of cargo; and

(C) further reduction in the risk score assigned pursuant to the Automated Targeting System;

(3) notification of specific alerts and post-incident procedures to the extent such notification does not compromise the security interests of the United States; and

(4) inclusion in joint incident management exercises, as appropriate.

(d) DEADLINE.—Not later than 2 years after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall designate appropriate criteria pursuant to subsection (b) and provide benefits to validated tier 3 participants pursuant to subsection (c).

**SEC. 217. CONSEQUENCES FOR LACK OF COMPLIANCE.**

(a) IN GENERAL.—If at any time a C–TPAT participant's security measures and supply chain security practices fail to meet any of the requirements under this subtitle, the Commissioner may deny the participant benefits otherwise available under this subtitle, in whole or in part.

(b) FALSE OR MISLEADING INFORMATION.—If a C–TPAT participant knowingly provides false or misleading information to the Commissioner during the validation process provided for under this subtitle, the Commissioner shall suspend or expel the participant from C–TPAT for an appropriate period of time. The Commissioner may publish in the Federal Register a list of participants who have been suspended or expelled from C–TPAT pursuant to this subsection, and may make such list available to C–TPAT participants.

(c) RIGHT OF APPEAL.—

(1) IN GENERAL.—A C–TPAT participant may appeal a decision of the Commissioner pursuant to subsection (a). Such appeal shall be filed with the Secretary not later than 90 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

(2) APPEALS OF OTHER DECISIONS.—A C–TPAT participant may appeal a decision of the Commissioner pursuant to subsection (b). Such appeal shall be filed with the Secretary not later than 30 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

**SEC. 218. REVALIDATION.**

The Secretary, acting through the Commissioner, shall develop and implement—

(1) a revalidation process for tier 2 and tier 3 participants;

(2) a framework based upon objective criteria for identifying participants for periodic revalidation not less frequently than once during each 5-year period following the initial validation; and

(3) an annual plan for revalidation that includes—

(A) performance measures;

(B) an assessment of the personnel needed to perform the revalidations; and

(C) the number of participants that will be revalidated during the following year.

**SEC. 219. NONCONTAINERIZED CARGO.**

The Secretary, acting through the Commissioner, shall consider the potential for participation in C–TPAT by importers of noncontainerized cargoes that otherwise meet the requirements under this subtitle.

**SEC. 220. C–TPAT PROGRAM MANAGEMENT.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall establish sufficient internal quality controls and record management to support the management systems of C–TPAT. In managing the program, the Secretary shall ensure that the program includes:

(1) STRATEGIC PLAN.—A 5-year plan to identify outcome-based goals and performance measures of the program.

(2) ANNUAL PLAN.—An annual plan for each fiscal year designed to match available resources to the projected workload.

(3) STANDARDIZED WORK PROGRAM.—A standardized work program to be used by agency personnel to carry out the certifications, validations, and revalidations of participants. The Secretary shall keep records and monitor staff hours associated with the completion of each such review.

(b) DOCUMENTATION OF REVIEWS.—The Secretary, acting through the Commissioner, shall maintain a record management system to document determinations on the reviews of each C–TPAT participant, including certifications, validations, and revalidations.

(c) CONFIDENTIAL INFORMATION SAFEGUARDS.—In consultation with the Commercial Operations Advisory Committee, the Secretary, acting through the Commissioner, shall develop and implement procedures to ensure the protection of confidential data collected, stored, or shared with government agencies or as part of the application, certification, validation, and revalidation processes.

**SEC. 221. RESOURCE MANAGEMENT STAFFING PLAN.**

The Secretary, acting through the Commissioner, shall—

(1) develop a staffing plan to recruit and train staff (including a formalized training program) to meet the objectives identified in the strategic plan of the C–TPAT program; and

(2) provide cross-training in post-incident trade resumption for personnel who administer the C–TPAT program.

**SEC. 222. ADDITIONAL PERSONNEL.**

In each of the fiscal years 2007 through 2009, the Commissioner shall increase by not less than 50 the number of full-time personnel engaged in the validation and revalidation of C–TPAT participants (over the number of such personnel on the last day of the previous fiscal year), and shall provide appropriate training and support to such additional personnel.

**SEC. 223. AUTHORIZATION OF APPROPRIATIONS.**

(a) C–TPAT.—There are authorized to be appropriated to the United States Customs and Border Protection in the Department of Homeland Security to carry out the provisions of sections 211 through 221 to remain available until expended—

(1) $65,000,000 for fiscal year 2008;
(2) $72,000,000 for fiscal year 2009; and
(3) $75,600,000 for fiscal year 2010.

(b) ADDITIONAL PERSONNEL.—In addition to any monies hereafter appropriated to the United States Customs and Border Protection in the Department of Homeland Security, there are authorized to be appropriated for the purpose of meeting the staffing requirement provided for in section 222, to remain available until expended—

(1) $8,500,000 for fiscal year 2007;
(2) $17,600,000 for fiscal year 2008;
(3) $27,300,000 for fiscal year 2009;
(4) $28,300,000 for fiscal year 2010; and
(5) $29,200,000 for fiscal year 2011.

**SEC. 224. REPORT TO CONGRESS.**

In connection with the President's annual budget submission for the Department of Homeland Security, the Secretary shall report to the appropriate congressional committees on the progress made by the Commissioner to certify, validate, and revalidate C–TPAT participants. Such report shall be due on the same date that the President's budget is submitted to the Congress.

***Subtitle C—Miscellaneous Provisions***

**SEC. 231. PILOT INTEGRATED SCANNING SYSTEM.**

(a) DESIGNATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall designate 3 foreign seaports through which containers pass or are transshipped to the United States for the establishment of pilot integrated scanning systems that couple nonintrusive imaging equipment and radiation detection equipment. In making the designations under this paragraph, the Secretary shall consider 3 distinct ports with unique features and differing levels of trade volume.

(b) COLLABORATION AND COOPERATION.—

(1) IN GENERAL.—The Secretary shall collaborate with the Secretary of Energy and cooperate with the private sector and the foreign government of each country in which a foreign seaport is designated pursuant to subsection (a) to implement the pilot systems.

(2) COORDINATION.—The Secretary shall coordinate with the Secretary of Energy to—

(A) provide radiation detection equipment required to support the pilot-integrated scanning system established pursuant to subsection (a) through the Department of Energy's Second Line of Defense and Megaports programs; or

(B) work with the private sector to obtain radiation detection equipment that meets both the Department's and the Department of Energy's technical specifications for such equipment.

(c) IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall achieve a full-scale implementation of the pilot integrated screening system, which shall—

(1) scan all containers destined for the United States that transit through the port;

(2) electronically transmit the images and information to the container security initiative personnel in the host country and customs personnel in the United States for evaluation and analysis;

(3) resolve every radiation alarm according to established Department procedures;

(4) utilize the information collected to enhance the Automated Targeting System or other relevant programs; and

(5) store the information for later retrieval and analysis.

(d) REPORT.—Not later than 120 days after achieving full-scale implementation under subsection (c), the Secretary, in consultation with the Secretary of Energy and the Secretary of State, shall submit a report to the appropriate congressional committees, that includes—

(1) an evaluation of the lessons derived from the pilot system implemented under this subsection;

(2) an analysis of the efficacy of the Automated Targeting System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) an evaluation of software that is capable of automatically identifying potential anomalies in scanned containers;

(4) an analysis of the need and feasibility of expanding the integrated scanning system to other container security initiative ports, including—

(A) an analysis of the infrastructure requirements;

(B) a projection of the effect on current average processing speed of containerized cargo;

(C) an evaluation of the scalability of the system to meet both current and future forecasted trade flows;

(D) the ability of the system to automatically maintain and catalog appropriate data for reference and analysis in the event of a transportation disruption;

(E) an analysis of requirements to install and maintain an integrated scanning system;

(F) the ability of administering personnel to efficiently manage and utilize the data produced by a non-intrusive scanning system;

(G) the ability to safeguard commercial data generated by, or submitted to, a non-intrusive scanning system; and

(H) an assessment of the reliability of currently available technology to implement an integrated scanning system.

(e) IMPLEMENTATION.—As soon as practicable and possible after the date of enactment of this Act, an integrated scanning system shall be implemented to scan all containers entering the United States prior to arrival in the United States.

**SEC. 232. INTERNATIONAL COOPERATION AND COORDINATION.**

(a) INSPECTION TECHNOLOGY AND TRAINING.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of State, the Secretary of Energy, and appropriate representatives of other Federal agencies, may provide technical assistance, equipment, and training to facilitate the implementation of supply chain security measures at ports designated under the Container Security Initiative and at other foreign ports, as appropriate.

(2) ACQUISITION AND TRAINING.—Unless otherwise prohibited by law, the Secretary may—

(A) lease, loan, provide, or otherwise assist in the deployment of nonintrusive inspection and handheld radiation detection equipment at foreign land and sea ports under such terms and conditions as the Secretary prescribes, including nonreimbursable loans or the transfer of ownership of equipment; and

(B) provide training and technical assistance for domestic or foreign personnel responsible for operating or maintaining such equipment.

(b) ACTIONS AND ASSISTANCE FOR FOREIGN PORTS.—Section 70110 of title 46, United States Code, is amended—

(1) by striking the section header and inserting the following:

**"§ 70110. Actions and assistance for foreign ports"**

; and

(2) by adding at the end the following:

''(e) ASSISTANCE FOR FOREIGN PORTS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, the Secretary of State, and the Secretary of Energy, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Secretary shall establish a program to utilize the programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.

''(2) CARIBBEAN BASIN.—The Secretary, in coordination with the Secretary of State and in consultation with the Organization of American States and the Commandant of the Coast Guard, shall place particular emphasis on utilizing programs to facilitate the implementation of port security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

''(A) the strategic location of such ports between South America and the United States;

''(B) the relative openness of such ports; and

''(C) the significant number of shipments of narcotics to the United States that are moved through such ports.''.

(c) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the appropriate congressional committees on the security of ports in the Caribbean Basin.

(2) CONTENTS.—The report submitted under paragraph (1)—

(A) shall include—

(i) an assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security;

(ii) an estimate of the number of ports in the Caribbean Basin that will not be secured by January 1, 2007;

(iii) an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States; and

(iv) an assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin; and

(B) may be submitted in both classified and redacted formats.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70110 and inserting the following:

''70110. Actions and assistance for foreign ports.''.

**SEC. 233. SCREENING AND SCANNING OF CARGO CONTAINERS.**

(a) 100 PERCENT SCREENING OF CARGO CONTAINERS AND 100 PERCENT SCANNING OF HIGH-RISK CONTAINERS.—

(1) SCREENING OF CARGO CONTAINERS.—The Secretary shall ensure that 100 percent of the cargo containers entering the United States through a seaport undergo a screening to identify high-risk containers.

(2) SCANNING OF HIGH-RISK CONTAINERS.—The Secretary shall ensure that 100 percent of the containers that have been identified as high-risk are scanned before such containers leave a United States seaport facility.

(b) FULL-SCALE IMPLEMENTATION.—The Secretary, in coordination with the Secretary of Energy and foreign partners, shall fully deploy integrated scanning systems to scan all containers entering the United States before such containers arrive in the United States as soon as the Secretary determines that the integrated scanning system—

(1) meets the requirements set forth in section 231(c);

(2) has a sufficiently low false alarm rate for use in the supply chain;

(3) is capable of being deployed and operated at ports overseas;

(4) is capable of integrating, as necessary, with existing systems;

(5) does not significantly impact trade capacity and flow of cargo at foreign or United States ports; and

(6) provides an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(c) REPORT.—Not later than 6 months after the submission of a report under section 231(d), and every 6 months thereafter, the Secretary shall submit a report to the appropriate congressional committees describing the status of full-scale deployment under subsection (b) and the cost of deploying the system at each foreign port.

**SEC. 234. INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE.**

(a) FINDING.—Congress finds that the Coast Guard, with existing resources, is able to inspect foreign countries no more frequently than on a 4 to 5 year cycle.

(b) IN GENERAL.—

(1) RESOURCES TO COMPLETE INITIAL INSPECTIONS AND VALIDATION.—The Commandant of the Coast Guard shall increase the resources dedicated to the International Port Inspection Program and complete inspection of all foreign countries that trade with the United States, including the validation of compliance of such countries with the International Ship and Port Facility Security Code, not later than December 31, 2008. If the Commandant of the Coast Guard is unable to meet this objective, the Commandant of the Coast Guard shall report to Congress on the resources needed to meet the objective.

(2) REINSPECTION AND VALIDATION.—The Commandant of the Coast Guard shall maintain the personnel and resources necessary to maintain a schedule of re-inspection of foreign countries every 2 years under the International Port Inspection Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Coast Guard such sums as are necessary to carry out the provisions of this section, subject to the availability of appropriations.

**SEC. 235. CARGO SCREENING.**

(a) RADIATION RISK REDUCTION.—

(1) SAFETY PROTOCOLS.—Immediately upon passage of this Act, the Secretary, in consultation with the Secretary of Labor and the Director of the National Institute of Occupational Safety and Health at the Centers for Disease Control, shall develop and implement protocols to protect the safety of port workers and the general public.

(2) PUBLICATION.—The protocols developed under paragraph (1) shall be—

(A) published and made available for public comment; and

(B) designed to reduce the short- and long-term exposure of worker and the public to the lowest levels feasible.

(3) REPORT.—Not later than 1 year after the implementation of protocols under paragraph (1), the Council of the National Academy of Sciences and Director of the National Institute of Occupational Safety and Health shall each submit a report to Congress that includes—

(A) information regarding the exposure of workers and the public and the possible risk to their health and safety, if any, posed by these screening procedures; and

(B) any recommendations for modification of the cargo screening protocols to reduce exposure to ionizing or non-ionizing radiation to the lowest levels feasible.

(b) GOVERNMENT RESPONSIBILITY.—Any employer of an employee who has an illness or injury for which exposure to ionizing or non-ionizing radiation from port cargo screening procedures required under Federal law is a contributing cause may seek, and shall receive, full reimbursement from the Federal Government for

*additional costs associated with such illness or injury, including costs incurred by the employer under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), State workers' compensation laws, or other equivalent programs.*

## *TITLE III—ADMINISTRATION*

***SEC. 301. OFFICE OF CARGO SECURITY POLICY.***

*(a) ESTABLISHMENT.—Subtitle C of title IV of the Homeland Security Act of 2002 (6 U.S.C. 231 et seq.) is amended by adding at the end the following:*

***''SEC. 431. OFFICE OF CARGO SECURITY POLICY.***

*''(a) ESTABLISHMENT.—There is established within the Department an Office of Cargo Security Policy (referred to in this section as the 'Office').*

*''(b) PURPOSE.—The Office shall—*

*''(1) coordinate all Department policies relating to cargo security; and*

*''(2) consult with stakeholders and coordinate with other Federal agencies in the establishment of standards and regulations and to promote best practices.*

*''(c) DIRECTOR.—*

*''(1) APPOINTMENT.—The Office shall be headed by a Director, who shall—*

*''(A) be appointed by the Secretary; and*

*''(B) report to the Assistant Secretary for Policy.*

*''(2) RESPONSIBILITIES.—The Director shall—*

*''(A) advise the Assistant Secretary for Policy in the development of Department-wide policies regarding cargo security;*

*''(B) coordinate all policies relating to cargo security among the agencies and offices within the Department relating to cargo security; and*

*''(C) coordinate the cargo security policies of the Department with the policies of other executive agencies.''.*

*(b) DESIGNATION OF LIAISON OFFICE OF DEPARTMENT OF STATE.—The Secretary of State shall designate a liaison office within the Department of State to assist the Secretary, as appropriate, in negotiating cargo security related international agreements.*

*(c) CLERICAL AMENDMENT.—The table of contents of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 430 the following:*

*''Sec. 431. Office of cargo security policy.''.*

***SEC. 302. REAUTHORIZATION OF HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.***

*(a) IN GENERAL.—Section 311(j) of the Homeland Security Act of 2002 (6 U.S.C. 191(j)) is amended by striking ''3 years after the effective date of this Act'' and inserting ''on December 31, 2008''.*

*(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if enacted on the date of the enactment of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.).*

*(c) ADVISORY COMMITTEE.—The Assistant Secretary for Science and Technology shall utilize the Homeland Security Science and Technology Advisory Committee, as appropriate, to provide outside expertise in advancing cargo security technology.*

***SEC. 303. RESEARCH, DEVELOPMENT, TEST, AND EVALUATION EFFORTS IN FURTHERANCE OF MARITIME AND CARGO SECURITY.***

*(a) IN GENERAL.—The Secretary shall—*

*(1) direct research, development, test, and evaluation efforts in furtherance of maritime and cargo security;*

*(2) coordinate with public and private sector entities to develop and test technologies and process innovations in furtherance of these objectives; and*

*(3) evaluate such technologies.*

*(b) COORDINATION.—The Secretary, in coordination with the Under Secretary for Science and Technology, the Assistant Secretary for Policy, the Chief Financial Officer, and the heads of other appropriate offices or entities of the Department, shall ensure that—*

*(1) research, development, test, and evaluation efforts funded by the Department in furtherance of maritime and cargo security are coordinated within the Department and with other appropriate Federal agencies to avoid duplication of efforts; and*

*(2) the results of such efforts are shared throughout the Department and with other Federal, State, and local agencies, as appropriate.*

***SEC. 304. COBRA FEES.***

*(a) EXTENSION OF FEES.—Subparagraphs (A) and (B)(i) of section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A) and (B)(i)) are amended by striking ''2014'' each place it appears and inserting ''2015''.*

***SEC. 305. ESTABLISHMENT OF COMPETITIVE RESEARCH PROGRAM.***

*(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:*

***''SEC. 314. COMPETITIVE RESEARCH PROGRAM.***

*''(a) IN GENERAL.—*

*''(1) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish a competitive research program within the Directorate.*

*''(2) DIRECTOR.—The program shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.*

*''(3) DUTIES OF DIRECTOR.—In the administration of the program, the Director shall—*

*''(A) establish a cofunding mechanism for States with academic facilities that have not fully developed security-related science and technology to support burgeoning research efforts by the faculty or link them to established investigators;*

*''(B) provide for conferences, workshops, outreach, and technical assistance to researchers and institutions of higher education in States on topics related to developing science and technology expertise in areas of high interest and relevance to the Department;*

*''(C) monitor the efforts of States to develop programs that support the Department's mission;*

*''(D) implement a merit review program, consistent with program objectives, to ensure the quality of research conducted with Program funding; and*

*''(E) provide annual reports on the progress and achievements of the Program to the Secretary.*

*''(b) ASSISTANCE UNDER THE PROGRAM.—*

*''(1) SCOPE.—The Director shall provide assistance under the program for research and development projects that are related to, or qualify as, homeland security research (as defined in section 307(a)(2)) under the program.*

*''(2) FORM OF ASSISTANCE.—Assistance under the program can take the form of grants, contracts, or cooperative arrangements.*

*''(3) APPLICATIONS.—Applicants shall submit proposals or applications in such form, at such times, and containing such information as the Director may require.*

*''(c) IMPLEMENTATION.—*

*''(1) START-UP PHASES.—For the first 3 fiscal years beginning after the date of enactment of the Border Infrastructure and Technology Integration Act of 2004, assistance under the program shall be limited to institutions of higher education located in States in which an institution of higher education with a grant from, or a contract or cooperative agreement with, the National Science Foundation under section 113 of the National Science Foundation Act of 1988 (42 U.S.C. 1862) is located.*

*''(2) SUBSEQUENT FISCAL YEARS.—*

*''(A) IN GENERAL.—Beginning with the 4th fiscal year after the date of enactment of this Act, the Director shall rank order the States (excluding any noncontiguous State (as defined in section 2(14)) other than Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands) in descending order in terms of the average amount of funds received by institutions of higher education (as that term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in each State that received financial assistance in the form of grants, contracts, or cooperative arrangements under this title during each of the preceding 3 fiscal years.*

*''(B) ALLOCATION.—Beginning with the 4th fiscal year after the date of enactment of this Act, assistance under the program for any fiscal year is limited to institutions of higher education located in States in the lowest third of those ranked under subparagraph (A) for that fiscal year.*

*''(C) DETERMINATION OF LOCATION.—For purposes of this paragraph, an institution of higher education shall be considered to be located in the State in which its home campus is located, except that assistance provided under the program to a division, institute, or other facility located in another State for use in that State shall be considered to have been provided to an institution of higher education located in that other State.*

*''(D) MULTIYEAR ASSISTANCE.—For purposes of this paragraph, assistance under the program that is provided on a multi-year basis shall be counted as provided in each such year in the amount so provided for that year.*

*''(d) FUNDING.—The Secretary shall ensure, subject to the availability of appropriations, that up to 5 percent of the amount appropriated for each fiscal year to the Acceleration Fund for Research and Development of Homeland Security Technologies established by section 307(c)(1) is allocated to the program established by subsection (a).*

*''(e) REPORT.—The Secretary shall submit an annual report to the appropriate congressional committees detailing the funds expended for the Acceleration Fund for Research and Development of Homeland Security Technologies established by section 307(c)(1).''.*

*(b) CONFORMING AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 313 the following:*

*''Sec. 314. Competitive research program.''.*

## *TITLE IV—AGENCY RESOURCES AND OVERSIGHT*

***SEC. 401. OFFICE OF INTERNATIONAL TRADE.***

*Section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072), is amended by adding at the end the following:*

*''(d) OFFICE OF INTERNATIONAL TRADE.—*

*''(1) ESTABLISHMENT.—There is established within the United States Customs and Border Protection an Office of International Trade that shall be headed by an Assistant Commissioner.*

*''(2) TRANSFER OF ASSETS, FUNCTIONS, AND PERSONNEL; ELIMINATION OF OFFICES.—*

*''(A) OFFICE OF STRATEGIC TRADE.—Not later than 90 days after the date of the enactment of the Port Security Improvement Act of 2006, the Commissioner shall transfer the assets, functions, and personnel of the Office of Strategic Trade to the Office of International Trade established pursuant to paragraph (1) and the Office of Strategic Trade shall be abolished.*

*''(B) OFFICE OF REGULATIONS AND RULINGS.—Not later than 90 days after the date of the enactment of the Port Security Improvement Act of 2006, the Commissioner shall transfer the assets, functions, and personnel of the Office of Regulations and Rulings to the Office of International Trade established pursuant to paragraph (1) and the Office of Regulations and Rulings shall be abolished.*

*''(C) OTHER TRANSFERS.—The Commissioner is authorized to transfer any other assets, functions, or personnel within the United States Customs and Border Protection to the Office of International Trade established pursuant to paragraph (1). Not later than 30 days after each such transfer, the Commissioner shall notify the Committee on Appropriations, the Committee on*

*Finance, and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Appropriations, the Committee on Homeland Security, and the Committee on Ways and Means of the House of Representatives of the specific assets, functions, or personnel, that were transferred, and the reason for such transfer.*

*''(e) INTERNATIONAL TRADE POLICY COMMITTEE.—*

*''(1) ESTABLISHMENT.—The Commissioner shall establish an International Trade Policy Committee, to be chaired by the Commissioner, and to include the Deputy Commissioner, the Assistant Commissioner in the Office of Field Operations, the Assistant Commissioner in the Office of International Affairs, the Assistant Commissioner in the Office of International Trade, and the Director of the Office of Trade Relations.*

*''(2) RESPONSIBILITIES.—The International Trade Policy Committee shall—*

*''(A) be responsible for advising the Commissioner with respect to the commercial customs and trade facilitation functions of the United States Customs and Border Protection; and*

*''(B) assist the Commissioner in coordinating with the Assistant Secretary for Policy regarding commercial customs and trade facilitation functions.*

*''(3) ANNUAL REPORT.—Not later than 30 days after the end of each fiscal year, the International Trade Policy Committee shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The report shall—*

*''(A) detail the activities of the International Trade Policy Committee during the preceding fiscal year; and*

*''(B) identify the priorities of the International Trade Policy Committee for the fiscal year in which the report is filed.*

*''(f) INTERNATIONAL TRADE FINANCE COMMITTEE.—*

*''(1) ESTABLISHMENT.—The Commissioner shall establish an International Trade Finance Committee, to be chaired by the Commissioner, and to include the Deputy Commissioner, the Assistant Commissioner in the Office of Finance, the Assistant Commissioner in the Office of International Trade, and the Director of the Office of Trade Relations.*

*''(2) RESPONSIBILITIES.—The Trade Finance Committee shall be responsible for overseeing the operation of all programs and systems that are involved in the assessment and collection of duties, bonds, and other charges or penalties associated with the entry of cargo into the United States, or the export of cargo from the United States, including the administration of duty drawback and the collection of antidumping and countervailing duties.*

*''(3) ANNUAL REPORT.—Not later than 30 days after the end of each fiscal year, the Trade Finance Committee shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. The report shall—*

*''(A) detail the activities and findings of the Trade Finance Committee during the preceding fiscal year; and*

*''(B) identify the priorities of the Trade Finance Committee for the fiscal year in which the report is filed.*

*''(g) DEFINITION.—In this section, the term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.''.*

***SEC. 402. RESOURCES.***

*Section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075) is amended by adding at the end the following:*

*''(h) RESOURCE ALLOCATION MODEL.—*

*''(1) RESOURCE ALLOCATION MODEL.—Not later than June 30, 2007, and every 2 years thereafter, the Commissioner shall prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a Resource Allocation Model to determine the optimal staffing levels required to carry out the commercial operations of United States Customs and Border Protection, including commercial inspection and release of cargo and the revenue functions described in section 412(b)(2) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)(2)). The model shall comply with the requirements of section 412(b)(1) of such Act and shall take into account previous staffing models and historic and projected trade volumes and trends. The Resource Allocation Model shall apply both risk-based and random sampling approaches for determining adequate staffing needs for priority trade functions, including—*

*''(A) performing revenue functions;*

*''(B) enforcing antidumping and countervailing laws;*

*''(C) protecting intellectual property rights;*

*''(D) enforcing provisions of law relating to trade in textiles and apparel;*

*''(E) conducting agricultural inspections;*

*''(F) enforcing fines, penalties and forfeitures; and*

*''(G) facilitating trade.*

*''(2) PERSONNEL.—*

*''(A) IN GENERAL.—Not later than September 30, 2007, the Commissioner shall ensure that the requirements of section 412(b) of the Homeland Security Act of 2002 (6 U.S.C. 212(b)) are fully satisfied and shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the implementation of this subparagraph.*

*''(B) CUSTOMS AND BORDER PROTECTION OFFICERS.—The initial Resource Allocation Model required pursuant to paragraph (1) shall provide for the hiring of a minimum of 1000 additional Customs and Border Protection Officers. The Commissioner shall hire such additional officers, subject to the appropriation of funds to pay for the salaries and expenses of such officers, of which the Commissioner shall assign—*

*''(i) 1 additional officer at each port of entry in the United States; and*

*''(ii) the balance of the additional officers authorized by this subsection among ports of entry in the United States.*

*''(C) ASSIGNMENT.—In assigning such officers pursuant to subparagraph (B), the Commissioner shall consider the volume of trade and the incidence of nonvoluntarily disclosed customs and trade law violations in addition to security priorities among such ports of entry.*

*''(D) REDISTRIBUTION.—Not later than September 30, 2008, the Director of Field Operations in each Field Office may, at the request of the Director of a Service Port reporting to such Field Office, direct the redistribution of the additional personnel provided for pursuant to subparagraph (B) among the ports of entry reporting to such Field Office. The Commissioner shall promptly report any redistribution of personnel pursuant to subparagraph (B) to the Committee on Homeland Security and Governmental Affairs and Committee on Finance of the Senate, and the Committee on Homeland Security and Committee on Ways and Means of the House of Representatives.*

*''(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to any monies hereafter appropriated to United States Customs and Border Protection in the Department of Homeland Security, there are authorized to be appropriated for the purpose of meeting the requirements of paragraph (2)(B), to remain available until expended—*

*''(A) $130,000,000 for fiscal year 2008.*

*''(B) $239,200,000 for fiscal year 2009.*

*''(C) $248,800,000 for fiscal year 2010.*

*''(D) $258,700,000 for fiscal year 2011.*

*''(E) $269,000,000 for fiscal year 2012.*

*''(4) REPORT.—Not later than 30 days after the end of each fiscal year, the Commissioner shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the resources directed to commercial and trade facilitation functions within the Office of Field Operations for the preceding fiscal year. Such information shall be reported for each category of personnel within the Office of Field Operations.*

*''(5) REGULATIONS TO IMPLEMENT TRADE AGREEMENTS.—Not later than 30 days after the date of the enactment of the Port Security Improvement Act of 2006, the Commissioner shall designate and maintain not less than 5 attorneys within the Office of International Trade established pursuant to section 2 of the Act of March 3, 1927 (44 Stat. 1381, chapter 348; 19 U.S.C. 2072) with primary responsibility for the prompt development and promulgation of regulations necessary to implement any trade agreement entered into by the United States.*

*''(6) DEFINITION.—As used in this subsection, the term 'Commissioner' means the Commissioner responsible for United States Customs and Border Protection in the Department of Homeland Security.''.*

***SEC. 403. NEGOTIATIONS.***

*Section 629 of the Tariff Act of 1930 (19 U.S.C. 1629) is amended by adding at the end the following:*

*''(h) CUSTOMS PROCEDURES AND COMMITMENTS.—*

*''(1) IN GENERAL.—The Secretary of Homeland Security, the United States Trade Representative, and other appropriate Federal officials, shall work through appropriate international organizations including the World Customs Organization (WCO), the World Trade Organization (WTO), the International Maritime Organization, and the Asia-Pacific Economic Cooperation, to align, to the extent practicable, customs procedures, standards, requirements, and commitments in order to facilitate the efficient flow of international trade.*

*''(2) UNITED STATES TRADE REPRESENTATIVE.—*

*''(A) IN GENERAL.—The United States Trade Representative shall seek commitments in negotiations in the WTO regarding the articles of GATT 1994 that are described in subparagraph (B) that make progress in achieving—*

*''(i) harmonization of import and export data collected by WTO members for customs purposes, to the extent practicable;*

*''(ii) enhanced procedural fairness and transparency with respect to the regulation of imports and exports by WTO members;*

*''(iii) transparent standards for the efficient release of cargo by WTO members, to the extent practicable; and*

*''(iv) the protection of confidential commercial data.*

*''(B) ARTICLES DESCRIBED.—The articles of the GATT 1994 described in this subparagraph are the following:*

*''(i) Article V (relating to transit).*

*''(ii) Article VIII (relating to fees and formalities associated with importation and exportation).*

*''(iii) Article X (relating to publication and administration of trade regulations).*

*''(C) GATT 1994.—The term 'GATT 1994' means the General Agreement on Tariff and Trade annexed to the WTO Agreement.*

*''(3) CUSTOMS.—The Secretary of Homeland Security, acting through the Commissioner and in consultation with the United States Trade Representative, shall work with the WCO to facilitate the efficient flow of international trade, taking into account existing international agreements and the negotiating objectives of the WTO. The Commissioner shall work to—*

*''(A) harmonize, to the extent practicable, import data collected by WCO members for customs purposes;*

*''(B) automate and harmonize, to the extent practicable, the collection and storage of commercial data by WCO members;*

*''(C) develop, to the extent practicable, transparent standards for the release of cargo by WCO members;*

''(D) develop and harmonize, to the extent practicable, standards, technologies, and protocols for physical or nonintrusive examinations that will facilitate the efficient flow of international trade; and

''(E) ensure the protection of confidential commercial data.

''(4) DEFINITION.—In this subsection, the term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.''.

**SEC. 404. INTERNATIONAL TRADE DATA SYSTEM.**

Section 411 of the Tariff Act of 1930 (19 U.S.C. 1411) is amended by adding at the end the following:

''(d) INTERNATIONAL TRADE DATA SYSTEM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—The Secretary of the Treasury (in this section, referred to as the 'Secretary') shall oversee the establishment of an electronic trade data interchange system to be known as the 'International Trade Data System' (ITDS). The ITDS shall be implemented not later than the date that the Automated Commercial Environment (commonly referred to as 'ACE') is implemented.

''(B) PURPOSE.—The purpose of the ITDS is to eliminate redundant information requirements, to efficiently regulate the flow of commerce, and to effectively enforce laws and regulations relating to international trade, by establishing a single portal system, operated by the United States Customs and Border Protection, for the collection and distribution of standard electronic import and export data required by all participating Federal agencies.

''(C) PARTICIPATION.—

''(i) IN GENERAL.—All Federal agencies that require documentation for clearing or licensing the importation and exportation of cargo shall participate in the ITDS.

''(ii) WAIVER.—The Director of the Office of Management and Budget may waive, in whole or in part, the requirement for participation for any Federal agency based on the national security interests of the United States.

''(D) CONSULTATION.—The Secretary shall consult with and assist agencies in the transition from paper to electronic format for the submission, issuance, and storage of documents relating to data required to enter cargo into the United States.

''(2) DATA ELEMENTS.—

''(A) IN GENERAL.—The Interagency Steering Committee (established under paragraph (3)) shall, in consultation with the agencies participating in the ITDS, define the standard set of data elements to be collected, stored, and shared in the ITDS. The Interagency Steering Committee shall periodically review the data elements in order to update the standard set of data elements, as necessary.

''(B) COMMITMENTS AND OBLIGATIONS.—The Interagency Steering Committee shall ensure that the ITDS data requirements are compatible with the commitments and obligations of the United States as a member of the World Customs Organization (WCO) and the World Trade Organization (WTO) for the entry and movement of cargo.

''(C) COORDINATION.—The Secretary shall be responsible for coordinating operation of the ITDS among the participating agencies and the office within the United States Customs and Border Protection that is responsible for maintaining the ITDS.

''(3) INTERAGENCY STEERING COMMITTEE.—There is established an Interagency Steering Committee (in this section, referred to as the 'Committee'). The members of the Committee shall include the Secretary (who shall serve as the chairperson of the Committee), the Director of the Office of Management and Budget, and the head of each agency participating in the ITDS. The Committee shall assist the Secretary in overseeing the implementation of, and participation in, the ITDS.

''(4) REPORT.—The Committee shall submit a report before the end of each fiscal year to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. Each report shall include information on—

''(A) the status of the ITDS implementation;

''(B) the extent of participation in the ITDS by Federal agencies;

''(C) the remaining barriers to any agency's participation;

''(D) the consistency of the ITDS with applicable standards established by the World Customs Organization and the World Trade Organization;

''(E) recommendations for technological and other improvements to the ITDS; and

''(F) the status of the development, implementation, and management of the Automated Commercial Environment within the United States Customs and Border Protection.''.

**SEC. 405. IN-BOND CARGO.**

Title IV of the Tariff Act of 1930 is amended by inserting after section 553 the following:

**''SEC. 553A. REPORT ON IN-BOND CARGO.**

''(a) REPORT.—Not later than June 30, 2007, the Commissioner shall submit a report to the Committees on Commerce, Science, and Transportation, Finance, and Homeland Security and Governmental Affairs of the Senate and the Committees on Homeland Security, Transportation and Infrastructure, and Ways and Means of the House of Representatives that includes—

''(1) a plan for closing in-bond entries at the port of arrival;

''(2) an assessment of the personnel required to ensure 100 percent reconciliation of in-bond entries between the port of arrival and the port of destination or exportation;

''(3) an assessment of the status of investigations of overdue in-bond shipments and an evaluation of the resources required to ensure adequate investigation of overdue in-bond shipments;

''(4) a plan for tracking in-bond cargo within the Automated Commercial Environment (ACE);

''(5) an assessment of whether any particular technologies should be required in the transport of in-bond cargo;

''(6) an assessment of whether ports of arrival should require any additional information regarding shipments of in-bond cargo;

''(7) an evaluation of the criteria for targeting and examining in-bond cargo; and

''(8) an assessment of the feasibility of reducing the transit time for in-bond shipments, including an assessment of the impact of such a change on domestic and international trade.

''(b) DEFINITION.—The term 'Commissioner' means the Commissioner responsible for the United States Customs and Border Protection in the Department of Homeland Security.''.

**SEC. 406. SENSE OF THE SENATE.**

It is the sense of the Senate that nothing in sections 2, 106, 111 through 113, and 201 through 232 of this Act shall be construed to affect the jurisdiction of any Standing Committee of the Senate.

**SEC. 407. FOREIGN OWNERSHIP OF PORTS.**

(a) IN GENERAL.—On and after the date of the enactment of this Act, the United States Trade Representative may not negotiate any bilateral or multilateral trade agreement that limits the Congress in its ability to restrict the operations or ownership of United States ports by a foreign country or person.

(b) OPERATIONS AND OWNERSHIP.—For purposes of this section, the term ''operations and ownership'' includes—

(1) operating and maintaining docks;

(2) loading and unloading vessels directly to or from land;

(3) handling marine cargo;

(4) operating and maintaining piers;

(5) ship cleaning;

(6) stevedoring;

(7) transferring cargo between vessels and trucks, trains, pipelines, and wharves; and

(8) waterfront terminal operations.

## TITLE V—RAIL SECURITY ACT OF 2006

**SEC. 501. SHORT TITLE.**

This title may be cited as the ''Rail Security Act of 2006''.

**SEC. 502. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.**

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security (referred to in this title as the ''Under Secretary''), in consultation with the Secretary of Transportation, shall conduct a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code), which shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment conducted under this subsection shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under this subsection, the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Not later than 180 days after the date of the enactment of this Act, the Under Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains—

(A) the assessment and prioritized recommendations required by subsection (a) and an

*estimate of the cost to implement such recommendations;*

*(B) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and*

*(C) a plan for coordinating rail security initiatives undertaken by the public and private sectors.*

*(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.*

*(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary $5,000,000 for fiscal year 2007 to carry out this section.*

***SEC. 503. RAIL SECURITY.***

*(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking ''the rail carrier'' each place it appears and inserting ''any rail carrier''.*

*(b) REVIEW OF RAIL REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.*

***SEC. 504. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.***

*(a) REQUIREMENT FOR STUDY.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.*

*(b) PURPOSE.—The purpose of the study conducted under subsection (a) shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.*

*(c) REPORT.—The Comptroller General shall submit a report on the results of the study conducted under subsection (a) to the Committee on Commerce, Science, and Transportation and Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.*

***SEC. 505. PASSENGER, BAGGAGE, AND CARGO SCREENING.***

*(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary, in cooperation with the Secretary of Transportation, shall—*

*(1) conduct a study to analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and*

*(2) not later than 1 year after the date of the enactment of this Act, submit a report containing the results of the study and any recommendations that the Under Secretary may have for implementing a rail security screening program to—*

*(A) the Committee on Commerce, Science, and Transportation and the Committee of Homeland Security and Governmental Affairs of the Senate; and*

*(B) the Committee on Transportation and Infrastructure of the House of Representatives.*

*(b) PILOT PROGRAM.—As part of the study conducted under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak, which shall be selected by the Under Secretary. In conducting the pilot program under this subsection, the Under Secretary shall—*

*(1) test a wide range of explosives detection technologies, devices, and methods;*

*(2) require that intercity rail passengers produce government-issued photographic identification, which matches the name on the passenger's tickets before the passenger boarding a train; and*

*(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers and Amtrak passengers.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary to carry out this section $5,000,000 for fiscal year 2007.*

***SEC. 506. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.***

*Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this title.*

***SEC. 507. FIRE AND LIFE-SAFETY IMPROVEMENTS.***

*(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation may award grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, New York, Baltimore, Maryland, and Washington, D.C.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:*

*(1) For the 6 New York tunnels, to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—*

*(A) $100,000,000 for fiscal year 2007;*
*(B) $100,000,000 for fiscal year 2008;*
*(C) $100,000,000 for fiscal year 2009; and*
*(D) $170,000,000 for fiscal year 2010.*

*(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—*

*(A) $10,000,000 for fiscal year 2007;*
*(B) $10,000,000 for fiscal year 2008;*
*(C) $10,000,000 for fiscal year 2009; and*
*(D) $17,000,000 for fiscal year 2010.*

*(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—*

*(A) $8,000,000 for fiscal year 2007;*
*(B) $8,000,000 for fiscal year 2008;*
*(C) $8,000,000 for fiscal year 2009; and*
*(D) $8,000,000 for fiscal year 2010.*

*(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation $3,000,000 for fiscal year 2007 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.*

*(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.*

*(e) PLANS REQUIRED.—The Secretary of Transportation may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—*

*(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and*

*(2) unless, for each project funded under this section, the Secretary has approved a project management plan prepared by Amtrak that appropriately addresses—*

*(A) project budget;*
*(B) construction schedule;*
*(C) recipient staff organization;*
*(D) document control and record keeping;*
*(E) change order procedure;*
*(F) quality control and assurance;*
*(G) periodic plan updates;*
*(H) periodic status reports; and*
*(I) such other matters the Secretary determines to be appropriate.*

*(f) REVIEW OF PLANS.—*

*(1) COMPLETION.—The Secretary of Transportation shall complete the review of the plans required under paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans not later than 45 days after the date on which each such plan is submitted by Amtrak.*

*(2) INCOMPLETE PLANS.—If the Secretary determines that a plan is incomplete or deficient—*

*(A) the Secretary shall notify Amtrak of the incomplete items or deficiencies; and*

*(B) not later than 30 days after receiving the Secretary's notification under subparagraph (A), Amtrak shall submit a modified plan for the Secretary's review.*

*(3) REVIEW OF MODIFIED PLANS.—Not later than 15 days after receiving additional information on items previously included in the plan, and not later than 45 days after receiving items newly included in a modified plan, the Secretary shall—*

*(A) approve the modified plan; or*

*(B) if the Secretary finds the plan is still incomplete or deficient—*

*(i) submit a report to the Committee on Commerce, Science, and Transportation and the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that identifies the portions of the plan the Secretary finds incomplete or deficient;*

*(ii) approve all other portions of the plan;*

*(iii) obligate the funds associated with those other portions; and*

*(iv) execute an agreement with Amtrak not later than 15 days thereafter on a process for resolving the remaining portions of the plan.*

*(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary of Transportation shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—*

*(1) consider the extent to which rail carriers other than Amtrak use the tunnels;*

*(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and*

*(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.*

***SEC. 508. MEMORANDUM OF AGREEMENT.***

*(a) MEMORANDUM OF AGREEMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.*

*(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking ''railroad safety'' and inserting ''railroad safety, including security,''.*

***SEC. 509. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.***

*(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:*

***''§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents***

*''(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2006, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.*

*''(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:*

*''(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.*

*''(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.*

*''(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.*

*''(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).*

*''(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.*

*''(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.*

*''(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.*

*''(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.*

*''(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.*

*''(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.*

*''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2007 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.''.*

*(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:*

*''Sec. 24316. Plans to address needs of families of passengers involved in rail passenger accidents.''.*

***SEC. 510. SYSTEMWIDE AMTRAK SECURITY UPGRADES.***

*(a) IN GENERAL.—Subject to subsection (c), the Under Secretary may award grants, through the Secretary of Transportation, to Amtrak—*

*(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, D.C.;*

*(2) to secure Amtrak trains;*

*(3) to secure Amtrak stations;*

*(4) to obtain a watch list identification system approved by the Under Secretary;*

*(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;*

*(6) to hire additional police and security officers, including canine units;*

*(7) to expand emergency preparedness efforts; and*

*(8) for employee security training.*

*(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak for projects under subsection (a) unless—*

*(1) the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation;*

*(2) capital projects meet the requirements under section 507(e)(2); and*

*(3) the plan includes appropriate measures to address security awareness, emergency response, and passenger evacuation training.*

*(c) EQUITABLE GEOGRAPHIC ALLOCATION.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized under this section.*

*(d) AVAILABILITY OF FUNDS.—There are authorized to be appropriated to the Under Secretary $63,500,000 for fiscal year 2007, $30,000,000 for fiscal year 2008, and $30,000,000 for fiscal year 2009 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.*

***SEC. 511. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.***

*(a) SECURITY IMPROVEMENT GRANTS.—The Under Secretary may award grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—*

*(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;*

*(2) accommodation of cargo or passenger screening equipment at the international border between the United States and Mexico or the international border between the United States and Canada;*

*(3) the security of hazardous material transportation by rail;*

*(4) secure intercity passenger rail stations, trains, and infrastructure;*

*(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;*

*(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;*

*(7) public security awareness campaigns for passenger train operations;*

*(8) the sharing of intelligence and information about security threats;*

*(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;*

*(10) to hire additional police and security officers, including canine units; and*

*(11) other improvements recommended by the report required under section 502(c), including infrastructure, facilities, and equipment upgrades.*

*(b) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants awarded under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.*

*(c) EQUITABLE ALLOCATION.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers and intercity rail passengers.*

*(d) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 510(b).*

*(e) ALLOCATION BETWEEN RAILROADS AND OTHERS.—Unless the Under Secretary determines, as a result of the assessment required by section 502, that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, a grant may not be awarded under this section—*

*(1) in excess of $65,000,000 to Amtrak; or*

*(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).*

*(f) HIGH HAZARD MATERIALS DEFINED.—In this section, the term ''high hazard materials'' means poison inhalation hazard materials, class 2.3 gases, class 6.1 materials, and anhydrous ammonia.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary $350,000,000 for fiscal year 2007 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.*

***SEC. 512. OVERSIGHT AND GRANT PROCEDURES.***

*(a) SECRETARIAL OVERSIGHT.—The Secretary of Transportation may use not more than 0.5 percent of amounts made available to Amtrak for capital projects under this title—*

*(1) to enter into contracts for the review of proposed capital projects and related program management plans; and*

*(2) to oversee construction of such projects.*

*(b) USE OF FUNDS.—The Secretary may use amounts available under subsection (a) to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).*

*(c) PROCEDURES FOR GRANT AWARD.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of*

*decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of the enactment of this Act.*

***SEC. 513. RAIL SECURITY RESEARCH AND DEVELOPMENT.***

*(a) ESTABLISHMENT OF RESEARCH AND DEVELOPMENT PROGRAM.—The Under Secretary, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—*

*(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;*

*(2) test new emergency response techniques and technologies;*

*(3) develop improved freight technologies, including—*

*(A) technologies for sealing rail cars;*

*(B) automatic inspection of rail cars;*

*(C) communication-based train controls; and*

*(D) emergency response training;*

*(4) test wayside detectors that can detect tampering with railroad equipment; and*

*(5) support enhanced security for the transportation of hazardous materials by rail, including—*

*(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;*

*(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 511(g));*

*(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety;*

*(6) other projects recommended in the report required under section 502.*

*(b) COORDINATION WITH OTHER RESEARCH INITIATIVES.—The Under Secretary shall ensure that the research and development program under this section is coordinated with other research and development initiatives at the Department of Homeland Security and the Department of Transportation. The Under Secretary shall carry out any research and development project authorized under this section through a reimbursable agreement with the Secretary of Transportation if the Secretary—*

*(1) is already sponsoring a research and development project in a similar area; or*

*(2) has a unique facility or capability that would be useful in carrying out the project.*

*(c) ACCOUNTABILITY.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary $50,000,000 in each of fiscal years 2007 and 2008 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.*

***SEC. 514. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.***

*(a) TRACK STANDARDS.—Not later than 90 days after the date of the enactment of this Act, the Administrator of the Federal Railroad Administration shall—*

*(1) require each track owner using continuous welded rail track to include procedures to improve the identification of cracks in rail joint bars in the procedures filed with the Administration under section 213.119 of title 49, Code of Federal Regulations;*

*(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and*

*(3) establish a program to—*

*(A) periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors; and*

*(B) require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail, if the Administrator determines that such increase or improvement is necessary or appropriate.*

*(b) TANK CAR STANDARDS.—The Administrator of the Federal Railroad Administration shall—*

*(1) not later than 1 year after the date of the enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and*

*(2) not later than 18 months after the date of the enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.*

*(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the Federal Railroad Administration shall—*

*(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and*

*(2) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains recommendations for measures to eliminate or mitigate the risk of catastrophic failure.*

***SEC. 515. NORTHERN BORDER RAIL PASSENGER REPORT.***

*Not later than 180 days after the date of the enactment of this Act, the Under Secretary, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall submit a report to the Committee on Commerce, Science, and Transportation and Committee of Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—*

*(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;*

*(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in ''The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America'', dated January 18, 2001;*

*(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the ''Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States'', dated April 2, 2003;*

*(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;*

*(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing pre-screened passenger lists for rail passengers traveling between the United States and Canada to the Department of Homeland Security;*

*(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and*

*(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing pre-screened passenger lists to the Department of Homeland Security.*

***SEC. 516. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.***

*(a) STUDY.—The Secretary of Homeland Security, in consultation with State and local government officials, shall conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.*

*(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Commerce, Science, and Transportation and Committee of Homeland Security and Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains—*

*(1) the findings of the study conducted under subsection (a); and*

*(2) recommendations for reducing the impact of blocked crossings on emergency response.*

***SEC. 517. WHISTLEBLOWER PROTECTION PROGRAM.***

*(a) IN GENERAL.—Subchapter I of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:*

***''§20118. Whistleblower protection for rail security matters***

*''(a) DISCRIMINATION AGAINST EMPLOYEE.—A rail carrier engaged in interstate or foreign commerce may not discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—*

*''(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a reasonably perceived threat, in good faith, to security; or*

*''(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a reasonably perceived threat, in good faith, to security; or*

*''(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.*

*''(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under such section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after the filing date. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.*

*''(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B), including the burdens of proof, applies to any complaint brought under this section.*

*''(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.*

*''(e) DISCLOSURE OF IDENTITY.—*

*''(1) IN GENERAL.—Except as provided in paragraph (2), or with the written consent of the employee, the Secretary of Transportation may not*

*disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.*

*''(2) ENFORCEMENT.—The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) if the matter is referred to the Attorney General for enforcement.''.*

*(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:*

*''Sec. 20118. Whistleblower protection for rail security matters.''.*

***SEC. 518. RAIL WORKER SECURITY TRAINING PROGRAM.***

*(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security and the Secretary of Transportation, in consultation with appropriate law enforcement, security, and terrorism experts, representatives of railroad carriers, and nonprofit employee organizations that represent rail workers, shall develop and issue detailed guidance for a rail worker security training program to prepare front-line workers for potential threat conditions. The guidance shall take into consideration any current security training requirements or best practices.*

*(b) PROGRAM ELEMENTS.—The guidance developed under subsection (a) shall include elements, as appropriate to passenger and freight rail service, that address the following:*

*(1) Determination of the seriousness of any occurrence.*

*(2) Crew communication and coordination.*

*(3) Appropriate responses to defend or protect oneself.*

*(4) Use of protective devices.*

*(5) Evacuation procedures.*

*(6) Psychology of terrorists to cope with hijacker behavior and passenger responses.*

*(7) Situational training exercises regarding various threat conditions.*

*(8) Any other subject the Secretary considers appropriate.*

*(c) RAILROAD CARRIER PROGRAMS.—Not later than 90 days after the Secretary of Homeland Security issues guidance under subsection (a) in final form, each railroad carrier shall develop a rail worker security training program in accordance with that guidance and submit it to the Secretary for review. Not later than 30 days after receiving a railroad carrier's program under this subsection, the Secretary shall review the program and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary for the program to meet the guidance requirements. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them.*

*(d) TRAINING.—Not later than 1 year after the Secretary reviews the training program developed by a railroad carrier under this section, the railroad carrier shall complete the training of all front-line workers in accordance with that program. The Secretary shall review implementation of the training program of a representative sample of railroad carriers and report to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security on the number of reviews conducted and the results. The Secretary may submit the report in both classified and redacted formats as necessary.*

*(e) UPDATES.—The Secretary shall update the training guidance issued under subsection (a) as appropriate to reflect new or different security threats. Railroad carriers shall revise their programs accordingly and provide additional training to their front-line workers within a reasonable time after the guidance is updated.*

*(f) FRONT-LINE WORKERS DEFINED.—In this section, the term ''front-line workers'' means security personnel, dispatchers, train operators, other onboard employees, maintenance and maintenance support personnel, bridge tenders, as well as other appropriate employees of railroad carriers, as defined by the Secretary.*

*(g) OTHER EMPLOYEES.—The Secretary of Homeland Security shall issue guidance and best practices for a rail shipper employee security program containing the elements listed under subsection (b) as appropriate.*

***SEC. 519. HIGH HAZARD MATERIAL SECURITY THREAT MITIGATION PLANS.***

*(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration) and the Secretary of Transportation, shall require rail carriers transporting a high hazard material, and of a quantity equal or exceeding the quantities of such material listed in subpart 172.800, title 49, Federal Code of Regulations, to develop a high hazard material security threat mitigation plan containing appropriate measures, including alternative routing and temporary shipment suspension options, to address assessed risks to high consequence targets. The plan, and any information submitted to the Secretary under this section shall be protected as sensitive security information under the regulations prescribed under section 114(s) of title 49, United States Code.*

*(b) IMPLEMENTATION.—A high hazard material security threat mitigation plan shall be put into effect by a rail carrier for the shipment of high hazardous materials by rail on the rail carrier's right-of-way when the threat levels of the Homeland Security Advisory System are high or severe and specific intelligence of probable or imminent threat exists towards—*

*(1) a high-consequence target that is within the catastrophic impact zone of a railroad right-of-way used to transport high hazardous material; or*

*(2) rail infrastructure or operations within the immediate vicinity of a high-consequence target.*

*(c) COMPLETION AND REVIEW OF PLANS.—*

*(1) PLANS REQUIRED.—Each rail carrier shall—*

*(A) submit a list of routes used to transport high hazard materials to the Secretary of Homeland Security within 60 days after the date of enactment of this Act;*

*(B) develop and submit a high hazard material security threat mitigation plan to the Secretary within 180 days after it receives the notice of high consequence targets on such routes by the Secretary; and*

*(C) submit any subsequent revisions to the plan to the Secretary within 30 days after making the revisions.*

*(2) REVIEW AND UPDATES.—The Secretary, with assistance of the Secretary of Transportation, shall review the plans and transmit comments to the railroad carrier concerning any revisions the Secretary considers necessary. A railroad carrier shall respond to the Secretary's comments within 30 days after receiving them. Each rail carrier shall update and resubmit its plan for review not less than every 2 years.*

*(d) DEFINITIONS.—In this section:*

*(1) CATASTROPHIC IMPACT ZONE.—The term ''catastrophic impact zone'' means the area immediately adjacent to, under, or above an active railroad right-of-way used to ship high hazard materials in which the potential release or explosion of the high hazard material being transported would likely cause—*

*(A) loss of life; or*

*(B) significant damage to property or structures.*

*(2) HIGH-CONSEQUENCE TARGET.—The term ''high-consequence target'' means a building, buildings, infrastructure, public space, or natural resource designated by the Secretary of Homeland Security that is viable terrorist target of national significance, the attack of which could result in—*

*(A) catastrophic loss of life; and*

*(B) significantly damaged national security and defense capabilities; or*

*(C) national economic harm.*

*(3) HIGH HAZARD MATERIALS.—The term ''high hazard materials'' means quantities of poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia that the Secretary, in consultation with the Secretary of Transportation, determines pose a security risk.*

*(4) RAIL CARRIER.—The term ''rail carrier'' has the meaning given that term by section 10102(5) of title 49, United States Code.*

***SEC. 520. PUBLIC AWARENESS.***

*Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop a national plan for public outreach and awareness. Such plan shall be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security. Such plan shall also provide outreach to railroad carriers and their employees to improve their awareness of available technologies, ongoing research and development efforts, and available Federal funding sources to improve railroad security. Not later than 9 months after the date of enactment of this Act, the Secretary of Homeland Security shall implement the plan developed under this section.*

***SEC. 521. RAILROAD HIGH HAZARD MATERIAL TRACKING.***

*(a) WIRELESS COMMUNICATIONS.—*

*(1) IN GENERAL.—In conjunction with any rail security research and development program administered by the Department of Homeland Security and consistent with the results of research relating to wireless tracking technologies, the Secretary of Homeland Security, in consultation with the Assistant Secretary of Homeland Security (Transportation Security Administration), shall develop a program that will encourage the equipping of rail cars transporting high hazard materials (as defined in section 519) in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless terrestrial or satellite communications technology that provides—*

*(A) car position location and tracking capabilities;*

*(B) notification of rail car depressurization, breach, or unsafe temperature; and*

*(C) notification of hazardous material release.*

*(2) COORDINATION.—In developing the program required by paragraph (1), the Secretary shall—*

*(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for rail car tracking at the Department of Transportation; and*

*(B) ensure that the program is consistent with recommendations and findings of the Department of Homeland Security's hazardous material tank rail car tracking pilot programs.*

*(b) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section $3,000,000 for each of fiscal years 2007, 2008, and 2009.*

## *TITLE VI—NATIONAL ALERT SYSTEM*

***SEC. 601. SHORT TITLE.***

*This title may be cited as the ''Warning, Alert, and Response Network Act''.*

***SEC. 602. NATIONAL ALERT SYSTEM.***

*(a) ESTABLISHMENT.—There is established a National Alert System to provide a public communications system capable of alerting the public on a national, regional, or local basis to emergency situations requiring a public response.*

*(b) FUNCTIONS.—The National Alert System—*

*(1) will enable any Federal, State, tribal, or local government official with credentials issued by the National Alert Office under section 603 to alert the public to any imminent threat that presents a significant risk of injury or death to the public;*

*(2) will be coordinated with and supplement existing Federal, State, tribal, and local emergency warning and alert systems;*

*(3) will be flexible enough in its application to permit narrowly targeted alerts in circumstances in which only a small geographic area is exposed or potentially exposed to the threat; and*

*(4) will transmit alerts across the greatest possible variety of communications technologies, including digital and analog broadcasts, cable and satellite television, satellite and terrestrial radio, wireless communications, wireline communications, and the Internet to reach the largest portion of the affected population.*

*(c) CAPABILITIES.—The National Alert System—*

*(1) shall incorporate multiple communications technologies and be designed to adapt to, and incorporate, future technologies for communicating directly with the public;*

*(2) shall include mechanisms and technologies to ensure that members of the public with disabilities and older individuals (as defined in section 102(35) of the Older Americans Act of 1965 (42 U.S.C. 3002(35))) are able to receive alerts and information provided through the National Alert System;*

*(3) shall not interfere with existing alert, warning, priority access, or emergency communications systems employed by Federal, State, tribal, or local emergency response personnel and may utilize existing emergency alert technologies, including the NOAA All-Hazards Radio System, digital and analog broadcast, cable, and satellite television and satellite and terrestrial radio;*

*(4) shall not be based upon any single technology or platform, but shall be designed to provide alerts to the largest portion of the affected population feasible and improve the ability of remote areas to receive alerts;*

*(5) shall incorporate technologies to alert effectively underserved communities (as determined by the Commission under section 608(a) of this title);*

*(6) when technologically feasible shall be capable of providing information in languages other than, and in addition to, English where necessary or appropriate; and*

*(7) shall be designed to promote local and regional public and private partnerships to enhance community preparedness and response.*

*(d) RECEPTION OF ALERTS.—The National Alert System shall—*

*(1) utilize multiple technologies for providing alerts to the public, including technologies that do not require members of the public to activate a particular device or use a particular technology to receive an alert provided via the National Alert System; and*

*(2) provide redundant alert mechanisms where practicable so as to reach the greatest number of people regardless of whether they have access to, or utilize, any specific medium of communication or any particular device.*

*(e) EMERGENCY ALERT SYSTEM.—Within 1 year after the date of enactment of this Act, the Federal Communications Commission shall—*

*(1) ensure the President, Secretary of Homeland Security, and State Governors have access to the emergency alert system; and*

*(2) ensure that the Emergency Alert System can transmit in languages other than English.*

***SEC. 603. IMPLEMENTATION AND USE.***

*(a) AUTHORITY TO ACCESS SYSTEM.—*

*(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the National Alert Office shall establish a process for issuing credentials to Federal, State, tribal, or local government officials with responsibility for issuing safety warnings to the public that will enable them to access the National Alert System and preserves access to existing alert, warning, and emergency communications systems pursuant to section 602(c)(3). The Office shall approve or disapprove a request for credentials within 60 days of request by the Federal department or agency, the governor of the State or the elected leader of a federally recognized Indian tribe.*

*(2) REQUESTS FOR CREDENTIALS.—Requests for credentials from Federal, State, tribal, and local government agencies shall be submitted to the Office by the head of the Federal department or agency, or the governor of the State or the elected leader of a Federally recognized Indian tribe, concerned, for review and approval.*

*(3) SCOPE AND LIMITATIONS OF CREDENTIALS.—The Office shall—*

*(A) establish eligibility criteria for issuing, renewing, and revoking access credentials;*

*(B) limit credentials to appropriate geographic areas or political jurisdictions; and*

*(C) ensure that the credentials permit use of the National Alert System only for alerts that are consistent with the jurisdiction, authority, and basis for eligibility of the individual to whom the credentials are issued to use the National Alert System.*

*(4) PERIODIC TRAINING.—The Office shall—*

*(A) establish a periodic training program for Federal, State, tribal, or local government officials with credentials to use the National Alert System; and*

*(B) require such officials to undergo periodic training under the program as a prerequisite for retaining their credentials to use the system.*

*(b) ALLOWABLE ALERTS.—*

*(1) IN GENERAL.—Any alert transmitted via the National Alert System, other than an alert described in paragraph (3), shall meet 1 or more of the following requirements:*

*(A) An alert shall notify the public of a hazardous situation that poses an imminent threat to the public health or safety.*

*(B) An alert shall provide appropriate instructions for actions to be taken by individuals affected or potentially affected by such a situation.*

*(C) An alert shall advise individuals of public addresses by Federal, State, tribal, or local officials when related to a significant threat to public safety and transmit such addresses when practicable and technically feasible.*

*(D) An alert shall notify the public of when the hazardous situation has ended or has been brought under control.*

*(2) EVENT ELIGIBILITY REGULATIONS.—The director of the National Alert Office, in consultation with the Working Group, shall by regulation specify—*

*(A) the classes of events or situations for which the National Alert System may be used to alert the public; and*

*(B) the content of the types of alerts that may be transmitted by or through use of the National Alert System, which may include—*

*(i) notifications to the public of a hazardous situation that poses an imminent threat to the public health or safety accompanied by appropriate instructions for actions to be taken by individuals affected or potentially affected by such a situation; and*

*(ii) when technologically feasible public addresses by Federal, State, tribal, or local officials related to a significant threat to public safety.*

*(3) OPT-IN PROCEDURES FOR OPTIONAL ALERTS.—The director of the Office, in coordination with the Working Group, may establish a procedure under which licensees who elect to participate in the National Alert System as described in subsection (d), may transmit non-emergency information via the National Alert System to individuals who request such information.*

*(c) ACCESS POINTS.—The National Alert System shall provide—*

*(1) secure, widely dispersed multiple access points to Federal, State, or local government officials with credentials that will enable them to initiate alerts for transmission to the public via the National Alert System; and*

*(2) system redundancies to ensure functionality in the event of partial system failures, power failures, or other interruptive events.*

*(d) ELECTION TO CARRY SERVICE.—*

*(1) AMENDMENT OF LICENSE.—Within 60 days after the date on which the National Alert Office adopts relevant technical standards based on recommendations of the Working Group, the Federal Communications Commission shall initiate a proceeding and subsequently issue an order—*

*(A) to allow any licensee providing commercial mobile service (as defined in section 332(d)(1) of the Communications Act of 1934 (47 U.S.C. 332(d)(1))) to transmit National Alert System alerts to all subscribers to, or users of, such service; and*

*(B) to require any such licensee who elects under paragraph (2) not to participate in the transmission of National Alert System alerts, to provide clear and conspicuous notice at the point of sale of any devices with which its service is included, that it will not transmit National Alert System alerts via its service.*

*(2) ELECTION TO CARRY SERVICE.—*

*(A) IN GENERAL.—Within 30 days after the Commission issues its order under paragraph (1), each such licensee shall file an election with the Commission with respect to whether or not it intends to participate in the transmission of National Alert System alerts.*

*(B) PARTICIPATION.—If a licensee elects to participate in the transmission of National Alert System alerts, the licensee shall certify to the Commission that it will participate in a manner consistent with the standards and protocols implemented by the National Alert Office.*

*(C) ADVERTISING.—Nothing in this title shall be construed to prevent a licensee from advertising that it participates in the transmission of National Alert System alerts.*

*(D) WITHDRAWAL FROM OR LATER ENTRY INTO SYSTEM.—The Commission shall establish a procedure—*

*(i) for a participating licensee to withdraw from the National Alert System upon notification of its withdrawal to its existing subscribers;*

*(ii) for a licensee to enter the National Alert System at a date later than provided in subparagraph (A); and*

*(iii) under which a subscriber may terminate a subscription to service provided by a licensee that withdraws from the National Alert System without penalty or early termination fee.*

*(E) CONSUMER CHOICE TECHNOLOGY.—Any licensee electing to participate in the transmission of National Alert System alerts may offer subscribers the capability of preventing the subscriber's device from receiving alerts broadcast by the system other than an alert issued by the President.*

*(3) EXPANSION OF CLASS OF LICENSEES PARTICIPATING.—The Commission, in consultation with the National Alert Office, may expand the class of licensees allowed to participate in the transmission of National Alert System alerts subject to such requirements as the Commission, in consultation with the National Alert Office, determines to be necessary or appropriate—*

*(A) to ensure the broadest feasible propagation of alerts transmitted by the National Alert System to the public; and*

*(B) to ensure that the functionality, integrity, and security of the National Alert System is not compromised.*

*(e) DIGITAL TELEVISION TRANSMISSION TOWERS.—*

*(1) RETRANSMISSION CAPABILITY.—Within 30 days after the date on which the National Alert Office adopts relevant technical standards based on recommendations of the Working Group, the Federal Communications Commission shall initiate a proceeding to require public broadcast television licensees and permittees to install necessary equipment and technologies on, or as part of, any broadcast television digital signal transmitter to enable the transmitter to serve as a backbone for the reception, relay, and retransmission of National Alert System alerts.*

*(2) COMPENSATION.—The National Alert Office established by section 605 shall compensate any*

*such licensee or permittee for costs incurred in complying with the requirements imposed pursuant to paragraph (1).*

*(f) FCC REGULATION OF COMPLIANCE.—Except as provided in subsections (d) and (e), the Federal Communications Commission shall have no regulatory authority under this title except to regulate compliance with this title by licensees and permittees regulated by the Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.).*

*(g) LIMITATION OF LIABILITY.—Any person that participates in the transmission of National Alert System alerts and that meets its obligations under this title shall not be liable to any subscriber to, or user of, such person's service or equipment for—*

*(1) any act or omission related to or any harm resulting from the transmission of, or failure to transmit, a National Alert System alert to such subscriber or user; or*

*(2) for the release to a government agency or entity, public safety, fire service, law enforcement official, or emergency facility of subscriber information used in connection with delivering an alert.*

*(h) TESTING.—The director shall establish testing criteria and guidelines for licensees that elect to participate in the transmission of National Alert System alerts.*

***SEC. 604. COORDINATION WITH EXISTING PUBLIC ALERT SYSTEMS AND AUTHORITY.***

*(a) EXISTING FEDERAL WARNING SYSTEM COORDINATION.—The director shall work with the Federal Communications Commission, the National Oceanic and Atmospheric Administration, and other relevant Federal agencies to ensure that the National Alert System—*

*(1) complements, rather than duplicates, existing Federal alert systems; and*

*(2) obtains the maximum benefit possible from the utilization of existing research and development, technologies, and processes developed for or utilized by existing Federal alert systems.*

*(b) EXISTING ALERT AUTHORITY.—Nothing in this title shall be construed—*

*(1) to interfere with the authority of a Federal, State, or local government official under any other provision of law to transmit public alerts via the NOAA All-Hazards Radio System, digital and analog broadcast, cable, and satellite television and satellite and terrestrial radio, or any other emergency alert system in existence on the date of enactment of this Act;*

*(2) to require alerts transmitted under the authority described in paragraph (1) to comply with any standard established pursuant to section 603; or*

*(3) to require any Federal, State, or local government official to obtain credentials or undergo training under this title before transmitting alerts under the authority described in paragraph (1).*

***SEC. 605. NATIONAL ALERT OFFICE.***

*(a) ESTABLISHMENT.—*

*(1) IN GENERAL.—The National Alert Office is established within the Department of Homeland Security.*

*(2) DIRECTOR.—The office shall be headed by a director with at least 5 years' operational experience in the management and issuance of warnings and alerts, hazardous event management, or disaster planning. The Director shall serve under and report to the Secretary of Homeland Security or his designee.*

*(3) STAFF.—The office shall have a staff with significant technical expertise in the communications industry and emergency public communications. The director may request the detailing of staff from any appropriate Federal department or agency in order to ensure that the concerns of all such departments and agencies are incorporated into the daily operation of the National Alert System.*

*(b) FUNCTIONS AND RESPONSIBILITIES.—*

*(1) IN GENERAL.—The Office shall administer, operate, and manage the National Alert System established under this title.*

*(2) IMPLEMENTATION OF WORKING GROUP RECOMMENDATIONS.—The Office shall be responsible for implementing the recommendations of the Working Group established by section 606 regarding—*

*(A) the technical transmission of alerts;*

*(B) the incorporation of new technologies into the National Alert System;*

*(C) the technical capabilities of the National Alert System; and*

*(D) any other matters that fall within the duties of the Working Group.*

*(3) TRANSMISSION OF ALERTS.—In administering the National Alert System, the director of the National Alert Office shall ensure that—*

*(A) the National Alert System is available to, and enables, only Federal, State, tribal, or local government officials with credentials issued by the National Alert Office under section 603 to access and utilize the National Alert System;*

*(B) the National Alert System is capable of providing geographically targeted alerts where such alerts are appropriate;*

*(C) the legitimacy and authenticity of any proffered alert is verified before it is transmitted;*

*(D) each proffered alert complies with formats, protocols, and other requirements established by the Office to ensure the efficacy and usefulness of alerts transmitted via the National Alert System;*

*(E) the security and integrity of a National Alert System alert from the point of origination to delivery is maintained; and*

*(F) the security and integrity of the National Alert System is maintained and protected.*

*(c) REPORTS.—*

*(1) ANNUAL REPORTS.—The director shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Homeland Security, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure on the status of, and plans for, the National Alert System. In the first annual report, the director shall report on—*

*(A) the progress made toward operational activation of the alerting capabilities of the National Alert System; and*

*(B) the anticipated date on which the National Alert System will be available for utilization by Federal, State, and local officials.*

*(2) 5-YEAR PLAN.—Within 1 year after the date of enactment of this Act and every 5 years thereafter, the director shall publish a 5-year plan that outlines future capabilities and communications platforms for the National Alert System. The plan shall serve as the long-term planning document for the Office.*

*(d) GAO AUDITS.—*

*(1) IN GENERAL.—The Comptroller General shall audit the National Alert Office every 3 years after the date of enactment of this Act and periodically thereafter and transmit the findings thereof to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Homeland Security, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure.*

*(2) RESPONSE REPORT.—If, as a result of the audit, the Comptroller General expresses concern about any matter addressed by the audit, the director of the National Alert Office shall transmit a report to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Homeland Security and Governmental Affairs, the House of Representatives Committee on Homeland Security, the House of Representatives Committee on Energy and Commerce, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure describing what action, if any, the director is taking to respond to any such concern.*

***SEC. 606. NATIONAL ALERT SYSTEM WORKING GROUP.***

*(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the director of the National Alert Office shall establish a working group, to be known as the National Alert System Working Group.*

*(b) MEMBERSHIP.—*

*(1) APPOINTMENT; CHAIR.—The director shall appoint the members of the Working Group as soon as practicable after the date of enactment of this Act and shall serve as its chair. In appointing members of the Working Group, the director shall ensure that the number of members appointed under paragraph (5) provides appropriate and adequate representation for all stakeholders and interested and affected parties.*

*(2) FEDERAL AGENCY REPRESENTATIVES.—Appropriate personnel from the National Institute of Standards and Technology, the National Oceanic and Atmospheric Administration, the Federal Communications Commission, the Federal Emergency Management Agency, the Nuclear Regulatory Commission, the Department of Justice, the National Communications System, the National Telecommunications and Information Administration, the Department of Homeland Security's Preparedness Directorate, the United States Postal Service, and other appropriate Federal agencies shall serve as members of the Working Group.*

*(3) STATE AND LOCAL GOVERNMENT REPRESENTATIVES.—The director shall appoint representatives of State and local governments and representatives of emergency services personnel, selected from among individuals nominated by national organizations representing such governments and personnel, to serve as members of the Working Group.*

*(4) TRIBAL GOVERNMENTS.—The director shall appoint representatives from Federally recognized Indian tribes and National Indian organizations.*

*(5) SUBJECT MATTER EXPERTS..—The director shall appoint individuals who have the requisite technical knowledge and expertise to serve on the Working Group in the fulfillment of its duties, including representatives of—*

*(A) communications service providers;*

*(B) vendors, developers, and manufacturers of systems, facilities; equipment, and capabilities for the provision of communications services;*

*(C) third-party service bureaus;*

*(D) technical experts from the broadcasting industry;*

*(E) the national organization representing the licensees and permittees of noncommercial broadcast television stations;*

*(F) national organizations representing individuals with special needs; and*

*(G) other individuals with technical expertise that would enhance the National Alert System.*

*(c) DUTIES OF THE WORKING GROUP.—*

*(1) DEVELOPMENT OF SYSTEM-CRITICAL RECOMMENDATIONS.—Within 1 year after the date of enactment of this Act, the Working Group shall develop and transmit to the National Alert Office recommendations for—*

*(A) protocols, including formats, source or originator identification, threat severity, hazard description, and response requirements or recommendations, for alerts to be transmitted via the National Alert System that ensures that alerts are capable of being utilized across the broadest variety of communication technologies, at National, State, and local levels;*

*(B) procedures for verifying, initiating, modifying, and canceling alerts transmitted via the National Alert System;*

*(C) guidelines for the technical capabilities of the National Alert System;*

*(D) guidelines for technical capability that provides for the priority transmission of National Alert System alerts;*

(E) guidelines for other capabilities of the National Alert System as specified in this title;

(F) standards for equipment and technologies used by the National Alert System;

(G) guidelines for the transmission of National System Alerts in languages in addition to English, to the extent practicable; and

(H) guidelines for incorporating the National Alert System into comprehensive emergency planning standards for public alert and notification and emergency public communications.

(2) INTEGRATION OF EMERGENCY AND NATIONAL ALERT SYSTEMS.—The Working Group shall work with the operators of nuclear power plants and other critical infrastructure facilities to integrate emergency alert systems for those facilities with the National Alert System.

(d) MEETINGS.—

(1) INITIAL MEETING.—The initial meeting of the Working Group shall take place not later than 60 days after the date of the enactment of this Act.

(2) OTHER MEETINGS.—After the initial meeting, the Working Group shall meet at the call of the chair.

(3) NOTICE; OPEN MEETINGS.—Any meetings held by the Working Group shall be duly noticed at least 14 days in advance and shall be open to the public.

(e) RESOURCES.—

(1) FEDERAL AGENCIES.—The Working Group shall have reasonable access to—

(A) materials, resources, data, and other information from the National Institute of Standards and Technology, the Department of Commerce and its agencies, the Department of Homeland Security and its bureaus, and the Federal Communications Commission; and

(B) the facilities of any such agency for purposes of conducting meetings.

(2) GIFTS AND GRANTS.—The Working Group may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Working Group. Gifts or grants not used at the expiration of the Working Group shall be returned to the donor or grantor.

(f) RULES.—

(1) QUORUM.—One-third of the members of the Working Group shall constitute a quorum for conducting business of the Working Group.

(2) SUBCOMMITTEES.—To assist the Working Group in carrying out its functions, the chair may establish appropriate subcommittees composed of members of the Working Group and other subject matter experts as deemed necessary.

(3) ADDITIONAL RULES.—The Working Group may adopt other rules as needed.

(g) FEDERAL ADVISORY COMMITTEE ACT.—Neither the Federal Advisory Committee Act (5 U.S.C. App.) nor any rule, order, or regulation promulgated under that Act shall apply to the Working Group.

**SEC. 607. RESEARCH AND DEVELOPMENT.**

(a) IN GENERAL.—The Undersecretary of Homeland Security for Science and Technology and the director jointly shall establish an extramural research and development program based on the recommendations of the Working Group to support the development of technology that will enable all existing and future providers of communications services and all existing and future communications devices to be utilized effectively with the National Alert System.

(b) FUNCTIONS.—In carrying out subsection (a) the Undersecretary for Science and Technology and the director shall—

(1) fund research and development which may include academia, the private sector, and government laboratories; and

(2) ensure that the program addresses, at a minimum—

(A) developing innovative technologies that will transmit geographically targeted emergency messages to the public;

(B) enhancing participation in the national alert system;

(C) understanding and improving public response to warnings; and

(D) enhancing the ability of local communities to integrate the National Alert System into their overall operations management.

(c) USE OF EXISTING PROGRAMS AND RESOURCES.—In developing the program, the Undersecretary for Science and Technology shall utilize existing expertise of the Department of Commerce, including the National Institute of Standards and Technology.

**SEC. 608. GRANT PROGRAM FOR REMOTE COMMUNITY ALERT SYSTEMS.**

(a) GRANT PROGRAM.—The Undersecretary of Commerce for Oceans and Atmosphere shall establish a program under which grants may be made to provide for the installation of technologies in remote communities effectively unserved by commercial mobile radio service (as determined by the Federal Communications Commission within 180 days after the date of enactment of this Act) for the purpose of enabling residents of those communities to receive National Alert System alerts.

(b) APPLICATIONS AND CONDITIONS.—In conducting the program, the Undersecretary—

(1) shall establish a notification and application procedure; and

(2) may establish such conditions, and require such assurances, as may be appropriate to ensure the efficiency and integrity of the grant program.

(c) SUNSET.—The Undersecretary may not make grants under subsection (a) more than 5 years after the date of enactment of this Act.

**SEC. 609. PUBLIC FAMILIARIZATION, OUTREACH, AND RESPONSE INSTRUCTIONS.**

The director of the National Office, in consultation with the Working Group, shall conduct a program of public outreach to ensure that the public is aware of the National Alert System and understands its capabilities and uses for emergency preparedness and response. The program shall incorporate multiple communications technologies and methods, including inserts in packaging for wireless devices, Internet websites, and the use of broadcast radio and television Non-Commercial Sustaining Announcement Programs.

**SEC. 610. ESSENTIAL SERVICES DISASTER ASSISTANCE.**

Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by adding at the end the following:

**''SEC. 425. ESSENTIAL SERVICE PROVIDERS.**

''(a) DEFINITION.—In this section, the term 'essential service provider' means an entity that—

''(1) provides—

''(A) telecommunications service;

''(B) electrical power;

''(C) natural gas;

''(D) water and sewer services; or

''(E) any other essential service, as determined by the President;

''(2) is—

''(A) a municipal entity;

''(B) a nonprofit entity; or

''(C) a private, for-profit entity; and

''(3) is contributing to efforts to respond to an emergency or major disaster.

''(b) AUTHORIZATION.—In an emergency or major disaster, the President may use Federal equipment, supplies, facilities, personnel, and other non-monetary resources to assist an essential service provider, in exchange for reasonable compensation.

''(c) COMPENSATION.—

''(1) IN GENERAL.—The President shall, by regulation, establish a mechanism to set reasonable compensation to the Federal Government for the provision of assistance under subsection (b).

''(2) CRITERIA.—The mechanism established under paragraph (1)—

''(A) shall reflect the cost to the government (or if this is not readily obtainable, the full market value under the applicable circumstances) for assistance provided under subsection (b) in setting compensation;

''(B) shall have, to the maximum degree feasible, streamlined procedures for determining compensation; and

''(C) may, at the President's discretion, be based on a good faith estimate of cost to the government rather than an actual accounting of costs.

''(3) PERIODIC REVIEW.—The President shall periodically review, and if necessary revise, the regulations established pursuant to paragraphs (1) and (2) to ensure that these regulations result in full compensation to the government for transferred resources. Such reviews shall occur no less frequently than once every 2 years, and the results of such reviews shall be reported to the House Transportation and Infrastructure Committee and the Senate Homeland Security and Governmental Affairs Committee.''.

**SEC. 611. DEFINITIONS.**

In this title:

(1) DIRECTOR.—The term ''director'' means the director of the National Alert Office.

(2) OFFICE.—The term ''Office'' means the National Alert Office established by section 605.

(3) NATIONAL ALERT SYSTEM.—The term ''National Alert System'' means the National Alert System established by section 602.

(4) NOAA.—The term ''NOAA'' means the National Oceanic and Atmospheric Administration.

(5) NON-COMMERCIAL SUSTAINING ANNOUNCEMENT PROGRAM.—The term ''Non-Commercial Sustaining Announcement Program'' means a radio and television campaign conducted for the benefit of a nonprofit organization or government agency using unsold commercial air time donated by participating broadcast stations for use in such campaigns, and for which the campaign's sponsoring organization or agency funds the cost of underwriting programs that serve the public convenience, interest, and necessity, as described in section 307 of the Communications Act of 1934 (47 U.S.C. 307).

(6) WORKING GROUP.—The term ''Working Group'' means the National Alert System Working Group on the established under section 606.

**SEC. 612. SAVINGS CLAUSE.**

Nothing in this title shall interfere with or supersede the authorities, missions, programs, operations, or activities of the Federal Communications Commission or the Department of Commerce, including those of the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and the National Telecommunications and Information Administration.

**SEC. 613. FUNDING.**

Funding for this title shall be provided from the Digital Transition and Public Safety Fund in accordance with section 3010 of the Digital Television Transition and Public Safety Act of 2005 (47 U.S.C. 309 note).

## TITLE VII—MASS TRANSIT SECURITY

**SEC. 701. SHORT TITLE.**

This title may be cited as the ''Public Transportation Terrorism Prevention Act of 2006''.

**SEC. 702. FINDINGS.**

Congress finds that—

(1) public transportation systems throughout the world have been a primary target of terrorist attacks, causing countless death and injuries;

(2) 5,800 public transportation agencies operate in the United States;

(3) 14,000,000 people in the United States ride public transportation each work day;

(4) safe and secure public transportation systems are essential for the Nation's economy and for significant national and international public events;

(5) the Federal Transit Administration has invested $74,900,000,000 since 1992 for construction and improvements to the Nation's public transportation systems;

(6) the Federal Government appropriately invested $18,100,000,000 in fiscal years 2002

*through 2005 to protect our Nation's aviation system and its 1,800,000 daily passengers;*

*(7) the Federal Government has allocated $250,000,000 in fiscal years 2003 through 2005 to protect public transportation systems in the United States;*

*(8) the Federal Government has invested $7.38 in aviation security improvements per passenger, but only $0.007 in public transportation security improvements per passenger;*

*(9) the Government Accountability Office, the Mineta Institute for Surface Transportation Policy Studies, the American Public Transportation Association, and many transportation experts have reported an urgent need for significant investment in public transportation security improvements; and*

*(10) the Federal Government has a duty to deter and mitigate, to the greatest extent practicable, threats against the Nation's public transportation systems.*

***SEC. 703. SECURITY ASSESSMENTS.***

*(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—*

*(1) SUBMISSION.—Not later than 30 days after the date of the enactment of this Act, the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Secretary of Homeland Security.*

*(2) REVIEW.—Not later than July 31, 2007, the Secretary of Homeland Security shall review and augment the security assessments received under paragraph (1).*

*(3) ALLOCATIONS.—The Secretary of Homeland Security shall use the security assessments received under paragraph (1) as the basis for allocating grant funds under section 704, unless the Secretary notifies the Committee on Banking, Housing, and Urban Affairs of the Senate that the Secretary has determined that an adjustment is necessary to respond to an urgent threat or other significant factors.*

*(4) SECURITY IMPROVEMENT PRIORITIES.—Not later than September 30, 2007, the Secretary of Homeland Security, after consultation with the management and employee representatives of each public transportation system for which a security assessment has been received under paragraph (1) and with appropriate State and local officials, shall establish security improvement priorities that will be used by public transportation agencies for any funding provided under section 704.*

*(5) UPDATES.—Not later than July 31, 2008, and annually thereafter, the Secretary of Homeland Security shall—*

*(A) update the security assessments referred to in this subsection; and*

*(B) conduct security assessments of all public transportation agencies considered to be at greatest risk of a terrorist attack.*

*(b) USE OF SECURITY ASSESSMENT INFORMATION.—The Secretary of Homeland Security shall use the information collected under subsection (a)—*

*(1) to establish the process for developing security guidelines for public transportation security; and*

*(2) to design a security improvement strategy that—*

*(A) minimizes terrorist threats to public transportation systems; and*

*(B) maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks.*

*(c) BUS AND RURAL PUBLIC TRANSPORTATION SYSTEMS.—Not later than July 31, 2007, the Secretary of Homeland Security shall conduct security assessments, appropriate to the size and nature of each system, to determine the specific needs of—*

*(1) local bus-only public transportation systems; and*

*(2) selected public transportation systems that receive funds under section 5311 of title 49, United States Code.*

***SEC. 704. SECURITY ASSISTANCE GRANTS.***

*(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—*

*(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable capital security improvements based on the priorities established under section 703(a)(4).*

*(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—*

*(A) tunnel protection systems;*

*(B) perimeter protection systems;*

*(C) redundant critical operations control systems;*

*(D) chemical, biological, radiological, or explosive detection systems;*

*(E) surveillance equipment;*

*(F) communications equipment;*

*(G) emergency response equipment;*

*(H) fire suppression and decontamination equipment;*

*(I) global positioning or automated vehicle locator type system equipment;*

*(J) evacuation improvements; and*

*(K) other capital security improvements.*

*(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—*

*(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable operational security improvements based on the priorities established under section 703(a)(4).*

*(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—*

*(A) security training for public transportation employees, including bus and rail operators, mechanics, customer service, maintenance employees, transit police, and security personnel;*

*(B) live or simulated drills;*

*(C) public awareness campaigns for enhanced public transportation security;*

*(D) canine patrols for chemical, biological, or explosives detection;*

*(E) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under section 703(a)(4); and*

*(F) other appropriate security improvements identified under section 703(a)(4), excluding routine, ongoing personnel costs.*

*(c) COORDINATION WITH STATE HOMELAND SECURITY PLANS.—In establishing security improvement priorities under section 3(a)(4) and in awarding grants for capital security improvements and operational security improvements under subsections (a) and (b), respectively, the Secretary of Homeland Security shall ensure that its actions are consistent with relevant State Homeland Security Plans.*

*(d) MULTI-STATE TRANSPORTATION SYSTEMS.—In cases where a public transportation system operates in more than 1 State, the Secretary of Homeland Security shall give appropriate consideration to the risks of the entire system, including those portions of the States into which the system crosses, in establishing security improvement priorities under section 3(a)(4), and in awarding grants for capital security improvements and operational security improvements under subsections (a) and (b), respectively.*

*(e) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before the award of any grant under this section, the Secretary of Homeland Security shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate of the intent to award such grant.*

*(f) PUBLIC TRANSPORTATION AGENCY RESPONSIBILITIES.—Each public transportation agency that receives a grant under this section shall—*

*(1) identify a security coordinator to coordinate security improvements;*

*(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this section; and*

*(3) report annually to the Department of Homeland Security on the use of grant funds received under this section.*

*(g) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.*

***SEC. 705. INTELLIGENCE SHARING.***

*(a) INTELLIGENCE SHARING.—The Secretary of Homeland Security shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.*

*(b) INFORMATION SHARING ANALYSIS CENTER.—*

*(1) ESTABLISHMENT.—The Secretary of Homeland Security shall provide sufficient financial assistance for the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the ''ISAC'') established pursuant to Presidential Directive 63, to protect critical infrastructure.*

*(2) PUBLIC TRANSPORTATION AGENCY PARTICIPATION.—The Secretary of Homeland Security—*

*(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;*

*(B) shall encourage all other public transportation agencies to participate in the ISAC; and*

*(C) shall not charge a fee to any public transportation agency for participating in the ISAC.*

***SEC. 706. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS AND CONTRACTS.***

*(a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary of Homeland Security, through the Homeland Security Advanced Research Projects Agency in the Science and Technology Directorate and in consultation with the Federal Transit Administration, shall award grants or contracts to public or private entities to conduct research into, and demonstrate, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.*

*(b) USE OF FUNDS.—Grants or contracts awarded under subsection (a)—*

*(1) shall be coordinated with Homeland Security Advanced Research Projects Agency activities; and*

*(2) may be used to—*

*(A) research chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;*

*(B) research imaging technologies;*

*(C) conduct product evaluations and testing; and*

*(D) research other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.*

*(c) REPORTING REQUIREMENT.—Each entity that is awarded a grant or contract under this section shall report annually to the Department of Homeland Security on the use of grant or contract funds received under this section.*

*(d) RETURN OF MISSPENT GRANT OR CONTRACT FUNDS.—If the Secretary of Homeland Security determines that a grantee or contractor used any portion of the grant or contract funds received under this section for a purpose other than the allowable uses specified under subsection (b), the grantee or contractor shall return any amount so used to the Treasury of the United States.*

***SEC. 707. REPORTING REQUIREMENTS.***

*(a) SEMI-ANNUAL REPORT TO CONGRESS.—*

*(1) IN GENERAL.—Not later than March 31 and September 30 each year, the Secretary of Homeland Security shall submit a report, containing the information described in paragraph (2), to—*

*(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;*

(B) the Committee on Homeland Security and Governmental Affairs of the Senate; and

(C) the Committee on Appropriations of the Senate.

(2) CONTENTS.—The report submitted under paragraph (1) shall include—

(A) a description of the implementation of the provisions of sections 703 through 706;

(B) the amount of funds appropriated to carry out the provisions of each of sections 703 through 706 that have not been expended or obligated; and

(C) the state of public transportation security in the United States.

(b) ANNUAL REPORT TO GOVERNORS.—

(1) IN GENERAL.—Not later than March 31 each year, the Secretary of Homeland Security shall submit a report to the Governor of each State with a public transportation agency that has received a grant under this title.

(2) CONTENTS.—The report submitted under paragraph (1) shall specify—

(A) the amount of grant funds distributed to each such public transportation agency; and

(B) the use of such grant funds.

**SEC. 708. AUTHORIZATION OF APPROPRIATIONS.**

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated $2,370,000,000 for fiscal year 2007 to carry out the provisions of section 704(a), which shall remain available until expended.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section 704(b)—

(1) $534,000,000 for fiscal year 2007;

(2) $333,000,000 for fiscal year 2008; and

(3) $133,000,000 for fiscal year 2009.

(c) INTELLIGENCE.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 705.

(d) RESEARCH.—There are authorized to be appropriated $130,000,000 for fiscal year 2007 to carry out the provisions of section 706, which shall remain available until expended.

**SEC. 709. SUNSET PROVISION.**

The authority to make grants under this title shall expire on October 1, 2010.

## TITLE VIII—DOMESTIC NUCLEAR DETECTION OFFICE

**SEC. 801. ESTABLISHMENT OF DOMESTIC NUCLEAR DETECTION OFFICE.**

(a) ESTABLISHMENT OF OFFICE.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

### "TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE

**"SEC. 1801. DOMESTIC NUCLEAR DETECTION OFFICE.**

''(a) ESTABLISHMENT.—There shall be established in the Department of Homeland Security a Domestic Nuclear Detection Office. The Secretary of Homeland Security may request that the Secretaries of Defense, Energy, and State, the Attorney General, the Nuclear Regulatory Commission, and the directors of other Federal agencies, including elements of the Intelligence Community, provide for the reimbursable detail of personnel with relevant expertise to the Office.

''(b) DIRECTOR.—The Office shall be headed by a Director for Domestic Nuclear Detection, who shall be appointed by the President.

**"SEC. 1802. MISSION OF OFFICE.**

''(a) MISSION.—The Office shall be responsible for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and to protect against attack using such devices or materials against the people, territory, or interests of the United States and, to this end, shall—

''(1) serve as the primary entity in the United States Government to further develop, acquire, and support the deployment of an enhanced domestic system to detect and report on attempts to import, possess, store, transport, develop, or use an unauthorized nuclear explosive device, fissile material, or radiological material in the United States, and improve that system over time;

''(2) enhance and coordinate the nuclear detection efforts of Federal, State, local, and tribal governments and the private sector to ensure a managed, coordinated response;

''(3) establish, with the approval of the Secretary of Homeland Security and in coordination with the Attorney General and the Secretaries of Defense and Energy, additional protocols and procedures for use within the United States to ensure that the detection of unauthorized nuclear explosive devices, fissile material, or radiological material is promptly reported to the Attorney General, the Secretaries of Defense, Homeland Security, and Energy, and other appropriate officials or their respective designees for appropriate action by law enforcement, military, emergency response, or other authorities;

''(4) develop, with the approval of the Secretary of Homeland Security and in coordination with the Attorney General and the Secretaries of State, Defense, and Energy, an enhanced global nuclear detection architecture with implementation under which—

''(A) the Domestic Nuclear Detection Office will be responsible for the implementation of the domestic portion of the global architecture;

''(B) the Secretary of Defense will retain responsibility for implementation of Department of Defense requirements within and outside the United States; and

''(C) the Secretaries of State, Defense, and Energy will maintain their respective responsibilities for policy guidance and implementation of the portion of the global architecture outside the United States, which will be implemented consistent with applicable law and relevant international arrangements;

''(5) conduct, support, coordinate, and encourage an aggressive, expedited, evolutionary, and transformational program of research and development efforts to prevent and detect the illicit entry, transport, assembly, or potential use within the United States of a nuclear explosive device or fissile or radiological material;

''(6) support and enhance the effective sharing and use of appropriate information generated by the intelligence community, law enforcement agencies, counterterrorism community, other government agencies, and foreign governments, as well as provide appropriate information to such entities;

''(7) further enhance and maintain continuous awareness by analyzing information from all Domestic Nuclear Detection Office mission-related detection systems; and

''(8) perform other duties as assigned by the Secretary.

**"SEC. 1803. HIRING AUTHORITY.**

''In hiring personnel for the Office, the Secretary of Homeland Security shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261). The term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before granting any extension under subsection (c)(2) of that section.

**"SEC. 1804. TESTING AUTHORITY.**

''(a) IN GENERAL.—The Director shall coordinate with the responsible Federal agency or other entity to facilitate the use by the Office, by its contractors, or by other persons or entities, of existing Government laboratories, centers, ranges, or other testing facilities for the testing of materials, equipment, models, computer software, and other items as may be related to the missions identified in section 1802. Any such use of Government facilities shall be carried out in accordance with all applicable laws, regulations, and contractual provisions, including those governing security, safety, and environmental protection, including, when applicable, the provisions of section 309. The Office may direct that private-sector entities utilizing Government facilities in accordance with this section pay an appropriate fee to the agency that owns or operates those facilities to defray additional costs to the Government resulting from such use.

''(b) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available shall be confidential and shall not be disclosed outside the Federal Government without the consent of the persons for whom the tests are performed.

''(c) FEES.—Fees for services made available under this section shall not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

''(d) USE OF FEES.—Fees received for services made available under this section may be credited to the appropriation from which funds were expended to provide such services.

**"SEC. 1805. RELATIONSHIP TO OTHER DEPARTMENT ENTITIES AND FEDERAL AGENCIES.**

''The authority of the Director under this title shall not affect the authorities or responsibilities of any officer of the Department of Homeland Security or of any officer of any other Department or agency of the United States with respect to the command, control, or direction of the functions, personnel, funds, assets, and liabilities of any entity within the Department of Homeland Security or any Federal department or agency.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 103(d) of the Homeland Security Act of 2002 (6 U.S.C. 113(d)) is amended by adding at the end the following:

''(5) A Director of the Domestic Nuclear Detection Office.''.

(2) Section 302 of such Act (6 U.S.C. 182) is amended—

(A) in paragraph (2) by striking ''radiological, nuclear''; and

(B) in paragraph (5)(A) by striking ''radiological, nuclear''.

(3) Section 305 of such Act (6 U.S.C. 185) is amended by inserting ''and the Director of the Domestic Nuclear Detection Office'' after ''Technology''.

(4) Section 308 of such Act (6 U.S.C. 188) is amended in each of subsections (a) and (b)(1) by inserting ''and the Director of the Domestic Nuclear Detection Office'' after ''Technology'' each place it appears.

(5) The table of contents of such Act (6 U.S.C. 101) is amended by adding at the end the following:

''TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE

''Sec. 1801. Domestic Nuclear Detection Office.
''Sec. 1802. Mission of office.
''Sec. 1803. Hiring authority.
''Sec. 1804. Testing authority.
''Sec. 1805. Relationship to other department entities and Federal agencies.''.

**SEC. 802. TECHNOLOGY RESEARCH AND DEVELOPMENT INVESTMENT STRATEGY FOR NUCLEAR AND RADIOLOGICAL DETECTION.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security, the Secretary of the Department of Energy, the Secretary of Defense, and the Director of National Intelligence shall submit to Congress a research and development investment strategy for nuclear and radiological detection.

(b) CONTENTS.—The strategy under subsection (a) shall include—

(1) a long-term technology roadmap for nuclear and radiological detection applicable to the mission needs of the Departments of Homeland Security, Energy, and Defense, and the Office of the Director of National Intelligence;

(2) budget requirements necessary to meet the roadmap; and

(3) documentation of how the Departments of Homeland Security, Energy, and Defense, and the Office of the Director of National Intelligence will implement the intent of this title.

## TITLE IX—IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY

### SEC. 901. SHORT TITLE.

This title may be cited as the ''Transportation Security Improvement Act of 2006''.

### SEC. 902. HAZARDOUS MATERIALS HIGHWAY ROUTING.

(a) ROUTE PLAN GUIDANCE.—Within one year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall—

(1) document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier, and develop a framework for using a Geographic Information System-based approach to characterize routes in the National Hazardous Materials Route Registry;

(2) assess and characterize existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;

(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;

(4) document the concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials for the purpose of identifying and mitigating security vulnerabilities associated with hazardous material routes;

(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security vulnerabilities when designating highway routes for hazardous materials consistent with the 13 safety-based non-radioactive materials routing criteria and radioactive materials routing criteria in Subpart C part 397 of title 49, Code of Federal Regulations;

(6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous material and assess specific security vulnerabilities associated with each route and explore alternative mitigation measures; and

(7) transmit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure a report on the actions taken to fulfill paragraphs (1) through (6) of this subsection and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.

(b) ROUTE PLANS.—

(1) ASSESSMENT.—Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans, in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum—

(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and

(B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title, taking into account the various segments of the trucking industry, including tank truck, truckload and less than truckload carriers.

(2) REPORT.—Within one year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the assessment.

(c) REQUIREMENT.—The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance the security and safety of the nation without imposing unreasonable costs or burdens upon motor carriers.

### SEC. 903. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.

(a) WIRELESS COMMUNICATIONS—

(1) IN GENERAL.—Consistent with the findings of the Transportation Security Administration's Hazmat Truck Security Pilot Program and within 6 months after the date of enactment of this Act, the Secretary of Homeland Security, through the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to encourage the equipping of motor carriers transporting high hazard materials in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless communications technology that provides—

(A) continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency message.

(2) CONSIDERATIONS.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on the Hazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(C) evaluate—

(i) any new information related to the cost and benefits of deploying and utilizing truck tracking technology for motor carriers transporting high hazard materials not included in the Hazardous Material Safety and Security Operation Field Test Report released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(ii) the ability of truck tracking technology to resist tampering and disabling;

(iii) the capability of truck tracking technology to collect, display, and store information regarding the movements of shipments of high hazard materials by commercial motor vehicles;

(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials; and

(v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities and alert emergency response resources to locate and recover security sensitive material in the event of loss or theft of such material.

(b) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section $3,000,000 for each of fiscal years 2007, 2008, and 2009.

### SEC. 904. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act. In establishing the program, the Secretary shall ensure that—

(1) the program does not subject carriers to unnecessarily duplicative reviews of their security plans by the 2 departments; and

(2) a common set of standards is used to review the security plans.

(b) CIVIL PENALTY.—The failure, by a shipper, carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Secretary of such failure to comply, is punishable by a civil penalty imposed by the Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the shipper, carrier, or other person received notice of the failure shall constitute a separate failure.

(c) COMPLIANCE REVIEW.—In reviewing the compliance of hazardous materials shippers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Secretary shall utilize risk assessment methodologies to prioritize review and enforcement actions to the most vulnerable and critical hazardous materials transportation operations.

(d) TRANSPORTATION COSTS STUDY.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Homeland Security, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers associated with the transportation of hazardous materials are reflected in the rates paid by shippers of such commodities as compared to the costs and rates respectively for the transportation of non-hazardous materials.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $2,000,000 for fiscal year 2007;

(2) $2,000,000 for fiscal year 2008; and

(3) $2,000,000 for fiscal year 2009.

### SEC. 905. TRUCK SECURITY ASSESSMENT.

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation, Senate Committee on Finance, the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Homeland Security, and the House of Representatives Committe on Ways and Means, a report on security issues related to the trucking industry that includes—

(1) an assessment of actions already taken to address identified security issues by both public and private entities;

(2) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators;

(3) an assessment of ongoing research and the need for additional research on truck security; and

(4) an assessment of industry best practices to enhance security.

**SEC. 906. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

(a) DEVELOPMENT.—The Secretary of Homeland Security, in conjunction with the Secretary of Transportation, shall consider the development of a national public sector response system to receive security alerts, emergency messages, and other information used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In considering the development of this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, private for-profit and non-profit emergency response organizations, and commercial motor vehicle and hazardous material safety groups. Consideration of development of the national public sector response system shall be based upon the public sector response center developed for the Transportation Security Administration hazardous material truck security pilot program and hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration.

(b) CAPABILITY.—The national public sector response system to be considered shall be able to receive, as appropriate—

(1) negative driver verification alerts;

(2) out-of-route alerts;

(3) driver panic or emergency alerts; and

(4) tampering or release alerts.

(c) CHARACTERISTICS.—The national public sector response system to be considered shall—

(1) be an exception-based system;

(2) be integrated with other private and public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and

(3) provide users the ability to create rules for alert notification messages.

(d) CARRIER PARTICIPATION.—The Secretary of Homeland Security shall coordinate with motor carriers and railroads transporting high hazard materials, entities acting on their behalf who receive communication alerts from motor carriers or railroads, or other Federal agencies that receive security and emergency related notification regarding high hazard materials in transit to facilitate the provisions of the information listed in subsection (b) to the national public sector response system to the extent possible if the system is established.

(e) DATA PRIVACY.—The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers, railroads, and employees.

(f) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on whether to establish a national public sector response system and the estimated total public and private sector costs to establish and annually operate such a system, together with any recommendations for generating private sector participation and investment in the development and operation of such a system.

(g) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $1,000,000 for fiscal year 2007;

(2) $1,000,000 for fiscal year 2008; and

(3) $1,000,000 for fiscal year 2009.

**SEC. 907. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program within the Transportation Security Administration for making grants to private operators of over-the-road buses or over-the-road bus terminal operators for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing and upgrading an emergency communications system linking operational headquarters, over-the-road buses, law enforcement, and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this section shall be 80 percent.

(c) DUE CONSIDERATION.—In making grants under this section, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security threat to bus passengers and the ability of the funded project to reduce, or respond to, that threat.

(d) GRANT REQUIREMENTS.—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

(e) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(A) a plan for making security improvements described in subsection (a) and the Secretary has approved the plan; and

(B) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(2) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(f) OVER-THE-ROAD BUS DEFINED.—In this section, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

(g) BUS SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a preliminary report in accordance with the requirements of this section.

(2) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(A) an assessment of the over-the-road bus security grant program;

(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(F) an assessment of industry best practices to enhance security.

(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

(h) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $12,000,000 for fiscal year 2007;

(2) $25,000,000 for fiscal year 2008; and

(3) $25,000,000 for fiscal year 2009.

Amounts made available pursuant to this subsection shall remain available until expended.

**SEC. 908. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.**

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed under section 909, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include—

(1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section 909—

(A) at high or severe security threat levels of alert; and

(B) when specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident.

(b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The plan shall take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (a), the Secretary of Homeland Security shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators,

*pipeline labor, first responders, shippers of hazardous materials, State Departments of Transportation, public safety officials, and other relevant parties.*

*(d) REPORT.—*

*(1) CONTENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the private and public sector costs to implement any recommendations.*

*(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.*

*(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2007.*

***SEC. 909. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.***

*(a) IN GENERAL.—Within 1 year after the date of enactment of this Act the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations in the September, 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections.*

*(b) REVIEW AND INSPECTION.—Within 9 months after the date of enactment of this Act the Secretary shall complete a review of the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September, 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department of Homeland Security or the Department of Transportation, as determined by the Secretary in consultation with the Secretary of Transportation.*

*(c) COMPLIANCE REVIEW METHODOLOGY.—In reviewing pipeline operator compliance under subsections (a) and (b), the Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target inspection and enforcement actions to the most vulnerable and critical pipeline assets.*

*(d) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit to pipeline operators and the Secretary of Transportation security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary of Homeland Security determines that regulations are appropriate, the Secretary shall promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for non-compliance.*

*(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—*

*(1) $2,000,000 for fiscal year 2007; and*

*(2) $2,000,000 for fiscal year 2008.*

***SEC. 910. TECHNICAL CORRECTIONS.***

*(a) HAZMAT LICENSES.—Section 5103a of title 49, United States Code, is amended—*

*(1) by inserting ''of Homeland Security'' each place it appears in subsections (a)(1), (d)(1)(b), and (e); and*

*(2) by redesignating subsection (h) as subsection (i) and inserting the following after subsection (g):*

*''(h) RELATIONSHIP TO TRANSPORTATION SECURITY CARDS.—Upon application, a State shall issue to an individual a license to operate a motor vehicle transporting in commerce a hazardous material without the security assessment required by this section, provided the individual meets all other applicable requirements for such a license, if the Secretary of Homeland Security has previously determined, under section 70105 of title 46, United States Code, that the individual does not pose a security risk.''.*

## *TITLE X—IP-ENABLED VOICE COMMUNICATIONS AND PUBLIC SAFETY*

***SEC. 1001. SHORT TITLE.***

*This title may be cited as the ''IP-Enabled Voice Communications and Public Safety Act of 2006''.*

***SEC. 1002. EMERGENCY SERVICE.***

*(a) ACCESS TO 911 COMPONENTS.—Within 90 days after the date of enactment of this Act, the Commission shall issue regulations regarding access by IP-enabled voice service providers to 911 components that permit any IP-enabled voice service provider to elect to be treated as a commercial mobile service provider for the purpose of access to any 911 component, except that the regulations issued under this subsection may take into account any technical or network security issues that are specific to IP-enabled voice services.*

*(b) STATE AUTHORITY OVER FEES.—Nothing in this title, the Communications Act of 1934, or any Commission regulation or order shall prevent the imposition on, or collection from, a provider of IP-enabled voice services of any fee or charge specifically designated by a State, political subdivision thereof, or Indian tribe for the support of 911 or E–911 services if that fee or charge—*

*(1) does not exceed the amount of any such fee or charge imposed on or collected from a provider of telecommunications services; and*

*(2) is obligated or expended in support of 911 and E–911 services, or enhancements of such services, or other emergency communications services as specified in the provision of State or local law adopting the fee or charge.*

*(c) PARITY OF PROTECTION FOR PROVISION OR USE OF IP-ENABLED VOICE SERVICE.—A provider or user of IP-enabled voice services, a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity (if any) of such provider, user, or PSAP, shall have the same scope and extent of immunity and other protection from liability under Federal and State law with respect to—*

*(1) the release of subscriber information related to emergency calls or emergency services,*

*(2) the use or provision of 911 and E–911 services, and*

*(3) other matters related to 911 and E–911 services,*

*as section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) provides to wireless carriers, PSAPs, and users of wireless 9–1–1 service (as defined in paragraphs (4), (3), and (6), respectively, of section 6 of that Act (47 U.S.C. 615b)) with respect to such release, use, and other matters.*

*(d) LIMITATION ON COMMISSION.—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.*

***SEC. 1003. ENFORCEMENT.***

*The Commission shall enforce this title, and any regulation promulgated under this title, under the Communications Act of 1934 (47 U.S.C. 151 et seq.) as if this title were a part of that Act. For purposes of this section any violation of this title, or any regulation promulgated under this title, is deemed to be a violation of the Communications Act of 1934.*

***SEC. 1004. MIGRATION TO IP-ENABLED EMERGENCY NETWORK.***

*(a) IN GENERAL.—Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended—*

*(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;*

*(2) by inserting after subsection (c) the following:*

*''(d) MIGRATION PLAN REQUIRED.—*

*''(1) NATIONAL PLAN REQUIRED.—No more than 18 months after the date of the enactment of the IP-Enabled Voice Communications and Public Safety Act of 2005, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications.*

*''(2) CONTENTS OF PLAN.—The plan required by paragraph (1) shall—*

*''(A) outline the potential benefits of such a migration;*

*''(B) identify barriers that must be overcome and funding mechanisms to address those barriers;*

*''(C) include a proposed timetable, an outline of costs and potential savings;*

*''(D) provide specific legislative language, if necessary, for achieving the plan;*

*''(E) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network; and*

*''(F) assess, collect, and analyze the experiences of the PSAPs and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of the IP-Enabled Voice Communications and Public Safety Act of 2005.*

*''(3) CONSULTATION.—In developing the plan required by paragraph (1), the Office shall consult with representatives of the public safety community, technology and telecommunications providers, and others it deems appropriate.''; and*

*(3) by striking ''services.'' in subsection (b)(1) and inserting ''services, and, upon completion of development of the national plan for migrating to a national IP-enabled emergency network under subsection (d), for migration to an IP-enabled emergency network.''.*

*(b) REPORT ON PSAPS.—*

*(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall—*

*(A) compile a list of all known public safety answering points, including such contact information regarding public safety answering points as the Commission determines appropriate;*

*(B) organize such list by county, town, township, parish, village, hamlet, or other general purpose political subdivision of a State; and*

*(C) make available from such list—*

*(i) to the public, on the Internet website of the Commission—*

*(I) the 10 digit telephone number of those public safety answering points appearing on such list; and*

*(II) a statement explicitly warning the public that such telephone numbers are not intended for emergency purposes and as such may not be answered at all times; and*

*(ii) to public safety answering points all contact information compiled by the Commission.*

*(2) CONTINUING DUTY.—The Commission shall continue—*

*(A) to update the list made available to the public described in paragraph (1)(C); and*

*(B) to improve for the benefit of the public the accessibility, use, and organization of such list.*

*(3) PSAPS REQUIRED TO COMPLY.—Each public safety answering point shall provide all requested contact information to the Commission as requested.*

*(c) REPORT ON SELECTIVE ROUTERS.—*

*(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall—*

(A) compile a list of selective routers, including the contact information of the owners of such routers;

(B) organize such list by county, town, township, parish, village, hamlet, or other general purpose political subdivision of a State; and

(C) make such list available to providers of telecommunications service and to providers of IP-enabled voice service who are seeking to provide E–911 service to their subscribers.

**SEC. 1005. DEFINITIONS.**

(a) IN GENERAL.—For purposes of this title:

(1) 911.—The term ''911'' means a service that allows a user, by dialing the three-digit code 911, to call a public safety answering point operated by a State, local government, Indian tribe, or authorized entity.

(2) 911 COMPONENT.—The term ''911 component'' means any equipment, network, databases (including automatic location information databases and master street address guides), interface, selective router, trunkline, or other related facility necessary for the delivery and completion of 911 or E–911 calls and information related to such calls to which the Commission requires access pursuant to its rules and regulations.

(3) E–911 SERVICE.—The term ''E–911 service'' means a 911 service that automatically delivers the 911 call to the appropriate public safety answering point, and provides automatic identification data, including the originating number of an emergency call, the physical location of the caller, and the capability for the public safety answering point to call the user back if the call is disconnected.

(4) IP-ENABLED VOICE SERVICE.—The term ''IP-enabled voice service'' means the provision of real-time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol, for a fee (whether part of a bundle of services or separately, or without a fee) with 2-way interconnection capability such that the service can originate traffic to, and terminate traffic from, the public switched telephone network.

(5) PSAP.—The term ''public safety answering point'' or ''PSAP'' means a facility that has been designated to receive 911 or E–911 calls.

(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this title have the meanings provided under section 3 of the Communications Act of 1934.

## TITLE XI—OTHER MATTERS

**SEC. 1101. CERTAIN TSA PERSONNEL LIMITATIONS NOT TO APPLY.**

(a) IN GENERAL.—Notwithstanding any provision of law to the contrary, any statutory limitation on the number of employees in the Transportation Security Administration, before or after its transfer to the Department of Homeland Security from the Department of Transportation, does not apply after the date of enactment of this Act.

(b) AVIATION SECURITY.—Notwithstanding any provision of law imposing a limitation on the recruiting or hiring of personnel into the Transportation Security Administration to a maximum number of permanent positions, the Secretary of Homeland Security shall recruit and hire such personnel into the Administration as may be necessary—

(1) to provide appropriate levels of aviation security; and

(2) to accomplish that goal in such a manner that the average aviation security-related delay experienced by airline passengers is reduced to a level of less than 10 minutes.

**SEC. 1102. RURAL POLICING INSTITUTE.**

(a) IN GENERAL.—There is established a Rural Policing Institute, which shall be administered by the Office of State and Local Training of the Federal Law Enforcement Training Center (based in Glynco, Georgia), to—

(1) evaluate the needs of law enforcement agencies of units of local government and tribal governments located in rural areas;

(2) develop expert training programs designed to address the needs of rural law enforcement agencies regarding combating methamphetamine addiction and distribution, domestic violence, law enforcement response related to school shootings, and other topics identified in the evaluation conducted under paragraph (1);

(3) provide the training programs described in paragraph (2) to law enforcement agencies of units of local government and tribal governments located in rural areas; and

(4) conduct outreach efforts to ensure that training programs under the Rural Policing Institute reach law enforcement officers of units of local government and tribal governments located in rural areas.

(b) CURRICULA.—The training at the Rural Policing Institute established under subsection (a) shall be configured in a manner so as to not duplicate or displace any law enforcement program of the Federal Law Enforcement Training Center in existence on the date of enactment of this Act.

(c) DEFINITION.—In this section, the term ''rural'' means area that is not located in a metropolitan statistical area, as defined by the Office of Management and Budget.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section (including for contracts, staff, and equipment)—

(1) $10,000,000 for fiscal year 2007; and

(2) $5,000,000 for each of fiscal years 2008 through 2012.

**SEC. 1103. EVACUATION IN EMERGENCIES.**

(a) PURPOSE.—The purpose of this section is to ensure the preparation of communities for future natural, accidental, or deliberate disasters by ensuring that the States prepare for the evacuation of individuals with special needs.

(b) EVACUATION PLANS FOR INDIVIDUALS WITH SPECIAL NEEDS.—The Secretary, acting through the Federal Emergency Management Agency, shall take appropriate actions to ensure that each State, as that term is defined in section 2(14) of the Homeland Security Act of 2002 (6 U.S.C. 101(14)), requires appropriate State and local government officials to develop detailed and comprehensive pre-disaster and post-disaster plans for the evacuation of individuals with special needs, including the elderly, disabled individuals, low-income individuals and families, the homeless, and individuals who do not speak English, in emergencies that would warrant their evacuation, including plans for the provision of food, water, and shelter for evacuees.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report setting forth, for each State, the status and key elements of the plans to evacuate individuals with special needs in emergencies that would warrant their evacuation.

(2) CONTENTS.—The report submitted under paragraph (1) shall include a discussion of—

(A) whether the States have the resources necessary to implement fully their evacuation plans; and

(B) the manner in which the plans of the States are integrated with the response plans of the Federal Government for emergencies that would require the evacuation of individuals with special needs.

**SEC. 1104. PROTECTION OF HEALTH AND SAFETY DURING DISASTERS.**

(a) PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.—Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by inserting after section 408 the following:

**''SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.**

''(a) DEFINITIONS.—In this section:

''(1) CERTIFIED MONITORING PROGRAM.—The term 'certified monitoring program' means a medical monitoring program—

''(A) in which a participating responder is a participant as a condition of the employment of such participating responder; and

''(B) that the Secretary of Health and Human Services certifies includes an adequate baseline medical screening.

''(2) HIGH EXPOSURE LEVEL.—The term 'high exposure level' means a level of exposure to a substance of concern that is for such a duration, or of such a magnitude, that adverse effects on human health can be reasonably expected to occur, as determined by the President in accordance with human monitoring or environmental or other appropriate indicators.

''(3) INDIVIDUAL.—The term 'individual' includes—

''(A) a worker or volunteer who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, including—

''(i) a police officer;

''(ii) a firefighter;

''(iii) an emergency medical technician;

''(iv) any participating member of an urban search and rescue team; and

''(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

''(B) a worker who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

''(C) a person whose place of residence is in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States;

''(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States, of the United States; and

''(E) any other person that the President determines to be appropriate.

''(4) PARTICIPATING RESPONDER.—The term 'participating responder' means an individual described in paragraph (3)(A).

''(5) PROGRAM.—The term 'program' means a program described in subsection (b) that is carried out for a disaster area.

''(6) SUBSTANCE OF CONCERN.—The term 'substance of concern' means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President, in coordination with ATSDR and EPA, CDC, NIH, FEMA, OSHA, and other agencies.

''(b) PROGRAM.—

''(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act and disrupts the transportation system of the United States, the President may carry out a program for the coordination and protection, assessment, monitoring, and study of the health and safety of individuals with high exposure levels to ensure that—

''(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern and potential mental health impacts in a timely manner;

''(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

''(i) any short- and long-term health impacts of any substance of concern; and

''(ii) any mental health impacts;

''(C) the individuals receive health care referrals as needed and appropriate; and

''(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

''(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

''(A) collecting and analyzing environmental exposure data;

''(B) developing and disseminating information and educational materials;

''(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

''(D) establishing and maintaining an exposure registry;

''(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

''(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

''(3) TIMING.—To the maximum extent practicable, activities under any program carried out under paragraph (1) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

''(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

''(A) IN GENERAL.—Participation in any registry or study that is part of a program carried out under paragraph (1) shall be voluntary.

''(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

''(C) PRIORITY.—

''(i) IN GENERAL.—Except as provided in clause (ii), the President shall give priority in any registry or study described in subparagraph (A) to the protection, monitoring and study of the health and safety of individuals with the highest level of exposure to a substance of concern.

''(ii) MODIFICATIONS.—Notwithstanding clause (i), the President may modify the priority of a registry or study described in subparagraph (A), if the President determines such modification to be appropriate.

''(5) COOPERATIVE AGREEMENTS.—

''(A) IN GENERAL.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, including a local health department, or a consortium of medical institutions.

''(B) SELECTION CRITERIA.—To the maximum extent practicable, the President shall select, to carry out a program under paragraph (1), a medical institution or a consortium of medical institutions that—

''(i) is located near—

''(I) the disaster area with respect to which the program is carried out; and

''(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

''(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

''(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

''(II) conducting long-term health monitoring and epidemiological studies;

''(III) conducting long-term mental health studies; and

''(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

''(6) INVOLVEMENT.—

''(A) IN GENERAL.—In carrying out a program under paragraph (1), the President shall involve interested and affected parties, as appropriate, including representatives of—

''(i) Federal, State, and local government agencies;

''(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

''(iii) local residents, businesses, and schools (including parents and teachers);

''(iv) health care providers;

''(v) faith based organizations; and

''(vi) other organizations and persons.

''(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

''(7) PRIVACY.—The President shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191).

''(8) EXISTING PROGRAMS.—In carrying out a program under paragraph (1), the President may—

''(A) include the baseline clinical health examination of a participating responder under a certified monitoring programs; and

''(B) substitute the baseline clinical health examination of a participating responder under a certified monitoring program for a baseline clinical health examination under paragraph (1).

''(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), may submit a report to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress describing the programs and studies carried out under the program.''.

(b) NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.—

(1) IN GENERAL.—The Secretary, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(2) PARTICIPATION OF EXPERTS.—The report under paragraph (1) shall be prepared with the participation of individuals who have expertise in—

(A) environmental health, safety, and medicine;

(B) occupational health, safety, and medicine;

(C) clinical medicine, including pediatrics;

(D) environmental toxicology;

(E) epidemiology;

(F) mental health;

(G) medical monitoring and surveillance;

(H) environmental monitoring and surveillance;

(I) environmental and industrial hygiene;

(J) emergency planning and preparedness;

(K) public outreach and education;

(L) State and local health departments;

(M) State and local environmental protection departments;

(N) functions of workers that respond to disasters, including first responders;

(O) public health; and

(P) family services, such as counseling and other disaster-related services provided to families.

(3) CONTENTS.—The report under paragraph (1) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(A) the establishment of protocols for monitoring and responding to chemical or substance releases in a disaster area to protect public health and safety, including—

(i) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

(ii) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;

(iii) chemical- or substance-specific methods of sample analysis;

(iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(v) procedures for providing monitoring results to—

(I) appropriate Federal, State, and local government agencies;

(II) appropriate response personnel; and

(III) the public;

(vi) responsibilities of Federal, State, and local agencies for—

(I) collecting and analyzing samples;

(II) reporting results; and

(III) taking appropriate response actions; and

(vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(B) other issues specified by the Secretary, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

**SEC. 1105. PILOT PROGRAM TO EXTEND CERTAIN COMMERCIAL OPERATIONS.**

(a) IN GENERAL.—During fiscal year 2007, the Commissioner shall extend the hours of commercial operations at the port of entry located at Santa Teresa, New Mexico, to a minimum of 16 hours a day.

(b) REPORT.—The Commissioner shall submit a report to the appropriate congressional committees not later than September 30, 2007, with respect to the extension of hours of commercial operations described in subsection (a). The report shall include:

(1) an analysis of the impact of the extended hours of operation on the port facility, staff, and trade volume handled at the port; and

(2) recommendations regarding whether to extend such hours of operation beyond fiscal year 2007.

**SEC. 1106. SECURITY PLAN FOR ESSENTIAL AIR SERVICE AIRPORTS.**

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Assistant Secretary for the Transportation Security Administration shall submit to Congress a security plan for Essential Air Service airports in the United States.

(b) ELEMENTS OF PLAN.—The security plan required by subsection (a) shall include the following:

(1) Recommendations for improved security measures at such airports.

(2) Recommendations for proper passenger and cargo security screening procedures at such airports.

(3) A timeline for implementation of recommended security measures or procedures at such airports.

(4) Cost analysis for implementation of recommended security measures or procedures at such airports.

**SEC. 1107. DISCLOSURES REGARDING HOMELAND SECURITY GRANTS.**

(a) DEFINITIONS.—In this section:

(1) HOMELAND SECURITY GRANT.—The term ''homeland security grant'' means any grant made or administered by the Department, including—

(A) the State Homeland Security Grant Program;

(B) the Urban Area Security Initiative Grant Program;

(C) the Law Enforcement Terrorism Prevention Program;

(D) the Citizen Corps; and

(E) the Metropolitan Medical Response System.

(2) LOCAL GOVERNMENT.—The term ''local government'' has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(b) REQUIRED DISCLOSURES.—Each State or local government that receives a homeland security grant shall, not later than 12 months after the later of the date of enactment of this Act and the date of receipt of such grant, and every 12 months thereafter until all funds provided under such grant are expended, report to the Secretary a list of all expenditures made by such State or local government using funds from such grant.

**SEC. 1108. INCLUSION OF THE TRANSPORTATION TECHNOLOGY CENTER IN THE NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM.**

The National Domestic Preparedness Consortium shall include the Transportation Technology Center in Pueblo, Colorado.

**SEC. 1109. TRUCKING SECURITY.**

(a) LEGAL STATUS VERIFICATION FOR LICENSED UNITED STATES COMMERCIAL DRIVERS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary of Homeland Security, shall issue regulations to implement the recommendations contained in the memorandum of the Inspector General of the Department of Transportation issued on June 4, 2004 (Control No. 2004–054).

(b) COMMERCIAL DRIVER'S LICENSE ANTI-FRAUD PROGRAMS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of the Transportation, in conjunction with the Secretary of the Department of Homeland Security, shall issue a regulation to implement the recommendations contained in the Report on Federal Motor Carrier Safety Administration Oversight of the Commercial Driver's License Program (MH–2006–037).

(c) VERIFICATION OF COMMERCIAL MOTOR VEHICLE TRAFFIC.—

(1) GUIDELINES.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Homeland Security shall draft guidelines for Federal, State, and local law enforcement officials, including motor carrier safety enforcement personnel, to improve compliance with Federal immigration and customs laws applicable to all commercial motor vehicles and commercial motor vehicle operators engaged in cross-border traffic.

(2) VERIFICATION.—Not later than 12 months after the date of the enactment of this Act, the Administrator of the Federal Motor Carrier Safety Administration shall modify the final rule regarding the enforcement of operating authority (Docket No. FMCSA–2002–13015) to establish a system or process by which a carrier's operating authority can be verified during a roadside inspection.

**SEC. 1110. EXTENSION OF REQUIREMENT FOR AIR CARRIERS TO HONOR TICKETS FOR SUSPENDED AIR PASSENGER SERVICE.**

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking ''November 19, 2005.'' and inserting ''November 30, 2007.''.

**SEC. 1111. MAN-PORTABLE AIR DEFENSE SYSTEMS.**

(a) IN GENERAL.—It is the sense of Congress that the budget of the United States Government submitted by the President for fiscal year 2008 under section 1105(a) of title 31, United States Code, should include an acquisition fund for the procurement and installation of countermeasure technology, proven through the successful completion of operational test and evaluation, to protect commercial aircraft from the threat of Man-Portable Air Defense Systems (MANPADS).

(b) DEFINITION OF MANPADS.—In this section, the term ''MANPADS'' means—

(1) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(2) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

**SEC. 1112. AIR AND MARINE OPERATIONS OF THE NORTHERN BORDER AIR WING.**

In addition to any other amounts authorized to be appropriated for Air and Marine Operations of United States Customs and Border Protection, there are authorized to be appropriated for fiscal year 2007 and 2008 for operating expenses of the Northern Border Air Wing, $40,000,000 for the branch in Great Falls, Montana.

**SEC. 1113. STUDY TO IDENTIFY REDUNDANT BACKGROUND RECORDS CHECKS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of background records checks carried out by Federal departments and agencies that are similar to the background records check required under section 5103a of title 49, United States Code, to identify redundancies and inefficiencies in connection with such checks.

(b) CONTENTS.—In conducting the study, the Comptroller General of the United States shall review, at a minimum, the background records checks carried out by—

(1) the Secretary of Defense;

(2) the Secretary of Homeland Security; and

(3) the Secretary of Energy.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study, including—

(1) an identification of redundancies and inefficiencies referred to in subsection (a); and

(2) recommendations for eliminating such redundancies and inefficiencies.

**SEC. 1114. PHASE-OUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.**

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883) and sections 12105(c) and 12106 of title 46, United States Code, a foreign-flag vessel may be employed for the movement or transportation of anchors for operations in support of exploration of offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea by or on behalf of a lessee—

(1) until January 1, 2010, if the Secretary of the department in which the Coast Guard is operating determines that insufficient eligible vessels documented under chapter 121 of title 46, United States Code, are reasonably available and suitable for these support operations; and

(2) during the period beginning January 1, 2010, and ending December 31, 2012, if the Secretary determines that—

(A) the lessee has entered into a binding agreement to use eligible vessels documented under chapter 121 of title 46, United States Code, in sufficient numbers and with sufficient suitability to replace foreign flag vessels operating under this section; and

(B) the Secretary determines that no eligible vessel documented under chapter 121 of title 46, United States Code, is reasonably available and suitable for these support operations to replace any foreign flag vessel operating under this section.

**SEC. 1115. COAST GUARD PROPERTY IN PORTLAND, MAINE.**

Section 347(c) of the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2109) is amended by striking ''within 30 months from the date of conveyance.'' and inserting ''by December 31, 2009.''.

**SEC. 1116. METHAMPHETAMINE AND METHAMPHETAMINE PRECURSOR CHEMICALS.**

(a) COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.—For each of the fiscal years of 2007, 2009, and 2011, as part of the annual performance plan required in the budget submission of the United States Customs and Border Protection under section 1115 of title 31, United States Code, the Commissioner shall establish performance indicators relating to the seizure of methamphetamine and methamphetamine precursor chemicals in order to evaluate the performance goals of the United States Customs and Border Protection with respect to the interdiction of illegal drugs entering the United States.

(b) STUDY AND REPORT RELATING TO METHAMPHETAMINE AND METHAMPHETAMINE PRECURSOR CHEMICALS.—

(1) ANALYSIS.—The Commissioner shall, on an ongoing basis, analyze the movement of methamphetamine and methamphetamine precursor chemicals into the United States. In conducting the analysis, the Commissioner shall—

(A) consider the entry of methamphetamine and methamphetamine precursor chemicals through ports of entry, between ports of entry, through the mails, and through international courier services;

(B) examine the export procedures of each foreign country where the shipments of methamphetamine and methamphetamine precursor chemicals originate and determine if changes in the country's customs over time provisions would alleviate the export of methamphetamine and methamphetamine precursor chemicals; and

(C) identify emerging trends in smuggling techniques and strategies.

(2) REPORT.—Not later than September 30, 2007, and each 2-year period thereafter, the Commissioner, in the consultation with the United States Immigration and Customs Enforcement, the United States Drug Enforcement Administration, and the United States Department of State, shall submit a report to the Committee on Finance and the Committee on Foreign Relations of the Senate, and the Committee on Ways and Means and the Committee on International Relations of the House of Representatives, that includes—

(A) a comprehensive summary of the analysis described in paragraph (1); and

(B) a description of how the Untied States Customs and Border Protection utilized the analysis described in paragraph (1) to target shipments presenting a high risk for smuggling or circumvention of the Combat Methamphetamine Epidemic Act of 2005 (Public Law 109–177).

(3) AVAILABILITY OF ANALYSIS.—The Commissioner shall ensure that the analysis described in paragraph (1) is made available in a timely manner to the Secretary of State to facilitate the Secretary in fulfilling the Secretary's reporting requirements in section 722 of the Combat Methamphetamine Epidemic Act of 2005.

(c) DEFINITION.—In this section, the term ''methamphetamine precursor chemicals'' means the chemicals ephedrine, pseudoephedrine, or phenylpropanolamine, including each of the salts, optical isomers, and salts of optical isomers of such chemicals.

**SEC. 1117. AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING PROGRAM.**

(a) IMPLEMENTATION STATUS.—Within 180 days after the date of enactment of this Act, the Comptroller General shall assess the Department of Homeland Security's aircraft charter customer and lessee prescreening process mandated by section 44903(j)(2) of title 49, United States Code, and report on the status of the program, its implementation, and its use by the general aviation charter and rental community and report the findings, conclusions, and recommendations, if any, of such assessment to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security.

## SUPPORTING THE GOALS OF RED RIBBON WEEK

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 576, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 576) supporting the goals of Red Ribbon Week.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleague Senator MURKOWSKI in sponsoring a resolution commemorating the annual Red Ribbon Week celebrated October 23–31. Red Ribbon Week encourages individuals, families, and communities to take a stand against alcohol, tobacco, and illegal drug use. I hope the rest of the Senate will join in supporting this resolution and support this very important campaign.

The tradition of Red Ribbon Week, now in its twenty-first year of wearing and displaying red ribbons, started following the assassination of U.S. Drug Enforcement Agency Special Agent Enrique ''Kiki'' Camarena. In an effort to honor his memory and unite in the battle against drug crime and abuse, friends, neighbors, and students from his home town began wearing red ribbons. Shortly thereafter, the National Family Partnership took the celebration nationwide. Since then, the Red Ribbon campaign has reached millions of children, families, and communities across the country, spreading the message about the destructive effects of drugs.

In my State of Iowa, this year's theme for Red Ribbon Week is Take a Stand—Be Drug Free. Schools and community groups across the State are organizing a variety of activities including pledges, contests, workshops, rallies, theatrical and musical performances, and other family and educational events all designed to educate our children on the negative effects of drugs and promote a drug-free environment.

Research tells us that the longer a child stays drug-free the less likely they will become addicted or even try illegal drugs. This is why it is so important to maintain a coherent antidrug message that begins early in adolescence and continues throughout the growing years. Such an effort must involve parents, communities, and young people. Red Ribbon Week provides each of us the opportunity to take a stand by helping our children make the right decisions when it comes to drugs.

In light of the growing epidemic of methamphetamine abuse throughout the Nation and especially in my State of Iowa, this year's Red Ribbon Week holds greater importance. I urge my colleagues to join us in passing this resolution to demonstrate our commitment to raising awareness about drugs and encourage everyone to make healthy choices.

Ms. MURKOWSKI. Mr. President, I rise today in support of a resolution that commemorates the 21st Annual Red Ribbon Campaign. I am honored to again seek the Senate's continuing support and recognition of Red Ribbon Week, which is October 23 through October 31.

In 1985, Special Agent Enrique ''Kiki'' Camarena of the Drug Enforcement Administration was kidnapped, tortured, and murdered by drug traffickers. Shortly after Agent Camarena's death, Congressman DUNCAN HUNTER and high school friend Henry Lozano launched ''Camarena Clubs'' in his hometown of Calexico, CA. In honor of Agent Camarena, hundreds of club members wore red ribbons and pledged to lead drug-free lives. The campaign quickly gained statewide and then national prominence. In 1988, what is now the National Family Partnership organized the first National Red Ribbon Week, an eight-day event proclaimed by the United States Congress and chaired by then President and Mrs. Reagan.

With over 80 million people participating in Red Ribbon Week events during the last week in October, it has become the Nation's oldest and largest drug-prevention program. Red Ribbon Week memorializes Agent Camarena, and all those who have lost their lives in the war on drugs, by educating young people about the dangers of drug abuse, promoting drug-free activities, and supporting everyone who has stood strong against the daily bombardment of mixed signals sent by the mass media. The Red Ribbon that we will wear during Red Ribbon Week is a symbol of zero tolerance for illegal drug use and our commitment to help people, especially children, make the right life-decisions.

In Alaska, Red Ribbon Week will be a statewide celebration involving thousands of school children and other supporters. On October 23, the Municipality of Anchorage, in conjunction with the Alaska Red Ribbon Coalition, which is comprised of the Anchorage School District, the Drug Enforcement Administration, the Alaska State Troopers, the Boys and Girls Clubs of Alaska, the Alaska National Guard, and many other organizations, will hold its Red Ribbon Week kickoff. Among other activities, there will be poetry readings and dance performances, and a Public Service Announcement featuring local youths sending an antidrug message will be broadcast throughout the State.

As people across the country stand together against drugs, I thank my colleagues for joining me in what will hopefully be a continuation of the tradition of congressional support and recognition of Red Ribbon Week.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution (S. Res. 576) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 576

Whereas the Governors and Attorneys General of the States, the National Family Partnership, Parent Teacher Associations, Boys and Girls Clubs of America, and more than 100 other organizations throughout the United States annually cosponsor Red Ribbon Week during the week of October 23 through October 31;

Whereas a purpose of the Red Ribbon Campaign is to commemorate the service of Enrique ''Kiki'' Camarena, a special agent of the Drug Enforcement Administration who died in the line of duty in 1985 while engaged in the battle against illicit drugs;

Whereas the Red Ribbon Campaign is nationally recognized and is in its twenty-first year of celebration to help preserve the memory of Special Agent Camarena and further the cause for which he gave his life;

Whereas the objective of Red Ribbon Week is to promote the creation of drug-free communities through drug prevention efforts, education, parental involvement, and community-wide support;

Whereas drug and alcohol abuse places the lives of children at risk and contributes to domestic violence and sexual assaults;

Whereas drug abuse is one of the major challenges that the citizens of the United States face in securing a safe and healthy future for the families and children of our Nation;

Whereas emerging drug threats, such as the growing epidemic of methamphetamine abuse and the abuse of inhalants and prescription drugs, jeopardize the progress made against illegal drug abuse; and

Whereas parents, youths, schools, businesses, law enforcement agencies, religious institutions, service organizations, senior citizens, medical and military personnel, sports teams, and individuals throughout the United States demonstrate their commitment to drug-free, healthy lifestyles by wearing and displaying red ribbons during this week-long celebration: Now, therefore, be it

*Resolved,* That the Senate—

(1) supports the goals of Red Ribbon Week;

(2) encourages children and teens to choose to live drug-free lives; and

(3) encourages all people of the United States—

(A) to promote the creation of drug-free communities; and

(B) to participate in drug prevention activities to show support for healthy, productive, and drug-free lifestyles.

## NATIONAL GOOD NEIGHBOR DAY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 577, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 577) designating September 24, 2006, as ''National Good Neighbor Day.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. BURNS. Mr. President, today, September 19, 2006, I join with my colleague from Montana, Senator BAUCUS, in cosponsoring a resolution to designate September 24, 2006 as National Good Neighbor Day. I am proud to promote positive, meaningful friendships between citizens as part of a long-established tradition begun in 1971 by one of Montana's own citizens.

National Good Neighbor Day was started by Becky Mattson of Lakeside, MT with the intent of fostering a strong community of friendship and interaction between neighbors. This day also serves to facilitate communication between senior citizens and children. So often the communications between America's greatest generation and our youngest citizens is not as strong as it could be, yet, Ms. Mattson has found a way to help encourage that important dialogue.

Ms. Mattson began this tradition by doing what so many Montanans and Americans do: she wrote a letter to her Senator. That letter, to Senator Mike Mansfield, was met with great enthusiasm and as result, the National Good Neighbor Day has become an annual event, taking place on the fourth Sunday of September. Her efforts have been recognized by countless individuals, and have even been recognized through proclamations by three United States Presidents: Carter, Ford and Nixon. In addition, governors of many States have issued proclamations of Good Neighbor Day as well.

In the spirit of Ms. Mattson, I encourage my colleagues in the Senate and in our communities to reach out and be a good neighbor. I urge children to visit with senior citizens and to share their life experiences. The efforts of each person matters, not just on this day, but everyday, and will make our communities stronger. I am proud of Ms. Mattson, and thank her for her contribution in making us all good neighbors.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 577) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 577

Whereas our society has developed highly effective means of speedy communication around the world, but has failed to ensure meaningful communication among people living across the globe, or even across the street, from one another;

Whereas the endurance of human values and consideration for others are critical to the survival of civilization; and

Whereas being good neighbors to those around us is the first step toward human understanding: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates September 24, 2006, as ''National Good Neighbor Day''; and

(2) calls on the people of the United States and interested groups and organizations to observe National Good Neighbor Day with appropriate ceremonies and activities.

## CHILD AND FAMILY SERVICES IMPROVEMENT ACT OF 2006

Mr. MCCONNELL. Mr. President, I ask that the Chair now lay before the Senate the House message to accompany S. 3525.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

S. 3525

*Resolved*, That the bill from the Senate (S. 3525) entitled ''An Act to amend subpart 2 of part B of title IV of the Social Security Act to improve outcomes for children in families affected by methamphetamine abuse and addiction, to reauthorize the promoting safe and stable families program, and for other purposes'', do pass with amendments.

Mr. BAUCUS. Mr. President, I applaud the Senate's unanimous approval of the Child and Family Services Improvement Act of 2006. I am proud to have cosponsored this legislation with Senators GRASSLEY, ROCKEFELLER, HATCH, and SNOWE. The bill reauthorizes and improves the Promoting Safe and Stable Families Program and the Child Welfare Services Act.

Every child deserves the chance to grow up in a safe and stable home, and we need to root out the problems that too often force children into the child welfare system, particularly the growing scourge of methamphetamine, or ''meth,'' abuse. This bill makes some real improvements to our child welfare system and gets us closer to the goal of a thriving, secure childhood for every American youngster.

In Montana, meth is wreaking havoc on our child welfare system. Prevention and intervention are key to stopping the vicious cycle. That is why I have worked hard to secure these funds so we can be one step closer to stamping out meth in Montana and around the country.

In hearings held earlier this year, the Senate Finance Committee heard testimony that ''over 65 percent of all foster care placements in Montana are directly attributable to drug use, and of those, meth is a primary factor 57 percent of the time,'' and that ''meth use among residents of the seven Indian tribes in Montana is far in excess of epidemic proportion.''

I am proud to have worked to include $145 million in competitive grants to address the problem of methamphetamine and substance abuse related to child welfare and foster care. The funding is targeted to regional partnerships that include State agencies and will be available for family-based, comprehensive, long-term substance abuse treatment, early intervention and preventive services, and other innovative initiatives. I also have worked to insure that historically under-funded child welfare programs for Indian tribes received increased monies to help combat new and challenging issues. I am grateful to Chairman GRASSLEY and others for recognizing these needs and working with me to enact these provisions.

The reauthorized Promoting Safe and Stable Families Program will also require States to provide additional information on efforts to get children into safe family situations and keep them there. Congress will receive actual spending data on adoption and postadoption services, efforts to keep families together, and efforts to provide permanent, safe, and loving homes for children.

In addition, the bill supports the training and hiring of more child welfare caseworkers so that more children in foster care will receive at least monthly visits. The bill requires States to achieve the standard of monthly social worker visits for 90 percent of foster children by 2011. This will help ensure proper monitoring of the development of children for whom the State has taken responsibility.

It also continues the Mentoring Children of Prisoners Program and creates a 3-year demonstration program to help provide mentoring services in underserved areas.

The child welfare system protects the most vulnerable people in our society. It provides a safe harbor for children. It looks out for children whose birth families, for one reason or another, have not been able to provide fertile soil in which to grow. Each year, almost 3,000 Montana children enter foster care. They come because of abuse. They come because of neglect. They come because of other serious difficulties in their families.

The Promoting Safe and Stable Families Program supports efforts to rebuild families. And it helps to find permanency for kids when that proves impossible. This program is the largest dedicated source of Federal funds for services to children and families. Last year, Montana received a little over $2 million from the program. These funds are critical to Montana's child welfare system, and this legislation is a pivotal opportunity to ensure adequate support for strong families.

I look forward to quick passage by the House so that we can begin to better safeguard the well-being of our children.

Mr. ROCKEFELLER. I support S. 3525, the Child and Family Services Improvement Act. This is a bill that will reauthorize the Promoting Safe and Stable Families Program, legislation that I have worked on since its creation in 1997.

I am proud to join my colleagues Senators GRASSLEY, BAUCUS, HATCH and SNOWE in support of this bill. Chairman GRASSLEY deserves our deep thanks and gratitude for real leadership on this legislation and a truly bipartisan process. The Finance Committee has a strong history of bipartisanship on child welfare and foster

care. And I should note that this bipartisanship is palpable at the staff level as well and the fine staff of the Finance Committee also deserve our thanks for making this agreement possible.

The children at risk of abuse and neglect in their own homes are among our most vulnerable children. Over the years, progress has been made to promote each child's safety, health and need for a permanent, safe home. But with 518,000 in foster care, there is clearly more work to be done for our children.

The 2006 Deficit Reduction Act included an additional $40 million per year provided for the Promoting Safe and Stable Families Program. Our legislation will target this new money to clear needs for our child welfare system. One priority will be to create new competitive grants to support regional partnership to combat methamphetamine, ''meth,'' or other drug abuses that are affecting the child welfare system. Meth is devastating areas in West Virginia and around our country. When law enforcement breaks up a home meth lab, child welfare workers are often needed on site to deal with the children as their parents are taken to jail. Such children have been exposed to toxins and are at risk of having been abused or neglected when their parents were high on meth. Substance abuse is a huge problem for families in the child welfare system, but there is hope that prevention and treatment can help. Family-based comprehensive long term treatment facilities are reporting some impressive results in helping children and families. Other innovative court projects and law enforcement programs are being developed. This bill invests real dollars to promote and evaluate the most effective programs.

The other priority of this legislation will be to make new investments to help states achieve what is considered the best practice of having monthly caseworker visits to 90 percent of the children in foster care. This standard helps improve outcomes for our most vulnerable children, and it is a worthy goal.

The bill will also reauthorize and expand the Mentoring Children of Prisoners Program, created in 2002 as part of the reauthorization. The expansion is a 3-year pilot program to use vouchers as a new delivery mechanism for services in the hope of helping children in rural and underserved areas. Three States, West Virginia, Vermont and Utah, do not have any Mentoring Children of Prisoners grants, but there are children living there and in rural areas who need a mentor. Under the voucher program, qualified mentoring programs in local communities could get funding to serve such children. This is worth trying as a new model.

Earlier this year, I hosted a roundtable in Beckley, WV on adoption, foster care and child welfare. I met with a judge, local officials and parents involved in our system. I heard an inspiring story of a young man who was adopted from foster care and has become a spokesperson for other children. Following this roundtable, it was very clear to me that we need to provide support and services to families in the system, and this new legislation should help.

For years, I have worked with my colleagues to try and improve our child welfare system and foster care. This bill is our next step forward. Its costs have been offset, and the priorities of combating meth and substance abuse, as well as more caseworker visits are goals that we all can rally to support. My hope is that this bill will provide the incentives and push for West Virginia and every state to do more for our most vulnerable children.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate concur in the House amendments, with amendments; the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5024) was agreed to.

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

The amendment (No. 5025) was agreed to, as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Act, insert the following: ''An Act to amend part B of title IV of the Social Security Act to reauthorize the promoting safe and stable families program, and for other purposes.''.

## CODE TALKERS RECOGNITION ACT

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of S. 1035 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. 1035) to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCONNELL. 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 any statements relating to the measure be printed in the RECORD.

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

The bill (S. 1035) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1035

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

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Code Talkers Recognition Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:



**SEC. 2. EXPRESSION OF RECOGNITION.**

The purpose of the medals authorized by this Act is to express recognition by the United States and citizens of the United States of, and to honor, the Native American Code Talkers who distinguished themselves in performing highly successful communications operations of a unique type that greatly assisted in saving countless lives and in hastening the end of World War I and World War II.

**TITLE I—SIOUX CODE TALKERS**

**SEC. 101. FINDINGS.**

Congress finds that—

(1) Sioux Indians used their native languages, Dakota, Lakota, and Dakota Sioux, as code during World War II;

(2) those individuals, who manned radio communications networks to advise of enemy actions, became known as the Sioux Code Talkers;

(3) under some of the heaviest combat action, the Code Talkers worked around the clock to provide information that saved the lives of many Americans in war theaters in the Pacific and Europe, such as the location of enemy troops and the number of enemy guns; and

(4) the Sioux Code Talkers were so successful that military commanders credit the code with saving the lives of countless American soldiers and being instrumental to the success of the United States in many battles during World War II.

**SEC. 102. CONGRESSIONAL COMMEMORATIVE MEDAL.**

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall make appropriate arrangements for the presentation, on behalf of Congress, of a commemorative medal of appropriate design, to each Sioux Code Talker, including—

(1) Eddie Eagle Boy;
(2) Simon Brokenleg;
(3) Iver Crow Eagle, Sr.;
(4) Edmund St. John;
(5) Walter C. John;
(6) John Bear King;
(7) Phillip ''Stoney'' LaBlanc;
(8) Baptiste Pumpkinseed;
(9) Guy Rondell;
(10) Charles Whitepipe; and

(11) Clarence Wolfguts.

## TITLE II—COMANCHE CODE TALKERS

**SEC. 201. FINDINGS.**

Congress finds that—

(1) the Japanese Empire attacked Pearl Harbor, Hawaii, on December 7, 1941, and Congress declared war on Japan the following day;

(2) the military code developed by the United States for transmitting messages had been deciphered by the Axis powers, and United States military intelligence sought to develop a new means to counter the enemy;

(3) the Federal Government called on the Comanche Nation to support the military effort by recruiting and enlisting Comanche men to serve in the United States Army to develop a secret code based on the Comanche language;

(4) at the time, the Comanches were—

(A) considered to be second-class citizens; and

(B) discouraged from using their own language;

(5) the Comanches of the 4th Signal Division became known as the ''Comanche Code Talkers'' and helped to develop a code using their language to communicate military messages during the D-Day invasion and in the European theater during World War II;

(6) to the frustration of the enemy, the code developed by those Native Americans—

(A) proved to be unbreakable; and

(B) was used extensively throughout the European war theater;

(7) the Comanche language, discouraged in the past, was instrumental in developing 1 of the most significant and successful military codes of World War II;

(8) the efforts of the Comanche Code Talkers—

(A) contributed greatly to the Allied war effort in Europe;

(B) were instrumental in winning the war in Europe; and

(C) saved countless lives;

(9) only 1 of the Comanche Code Talkers of World War II remains alive today; and

(10) the time has come for Congress to honor the Comanche Code Talkers for their valor and service to the United States.

**SEC. 202. CONGRESSIONAL COMMEMORATIVE MEDAL.**

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall make appropriate arrangements for the presentation, on behalf of Congress, of a commemorative medal of appropriate design to each of the following Comanche Code Talkers of World War II, in recognition of contributions of those individuals to the United States:

(1) Charles Chibitty.
(2) Haddon Codynah.
(3) Robert Holder.
(4) Forrest Kassanovoid.
(5) Willington Mihecoby.
(6) Perry Noyebad.
(7) Clifford Otitivo.
(8) Simmons Parker.
(9) Melvin Permansu.
(10) Dick Red Elk.
(11) Elgin Red Elk.
(12) Larry Saupitty.
(13) Morris Sunrise.
(14) Willie Yackeschi.

## TITLE III—CHOCTAW CODE TALKERS

**SEC. 301. FINDINGS.**

Congress finds that—

(1) on April 6, 1917, the United States, after extraordinary provocations, declared war on Germany and entered World War I, the War to End All Wars;

(2) at the time of that declaration of war, Indian people in the United States, including members of the Choctaw Nation, were not accorded the status of citizens of the United States;

(3) without regard to this lack of citizenship, many members of the Choctaw Nation joined many members of other Indian tribes and nations in enlisting in the Armed Forces to fight on behalf of the United States;

(4) members of the Choctaw Nation were—

(A) enlisted in the force known as the American Expeditionary Force, which began hostile actions in France in the fall of 1917; and

(B) incorporated in a company of Indian enlistees serving in the 142d Infantry Company of the 36th Division;

(5) a major impediment to Allied operations in general, and operations of the United States in particular, was the fact that the German forces had deciphered all codes used for transmitting information between Allied commands, leading to substantial loss of men and materiel during the first year in which the military of the United States engaged in combat in World War I;

(6) because of the proximity and static nature of the battle lines, a method to communicate without the knowledge of the enemy was needed;

(7) a commander of the United States realized the fact that he had under his command a number of men who spoke a native language;

(8) while the use of such native languages was discouraged by the Federal Government, the commander sought out and recruited 18 Choctaw Indians to assist in transmitting field telephone communications during an upcoming campaign;

(9) because the language used by the Choctaw soldiers in the transmission of information was not based on a European language or on a mathematical progression, the Germans were unable to understand any of the transmissions;

(10) the Choctaw soldiers were placed in different command positions to achieve the widest practicable area for communications;

(11) the use of the Choctaw Code Talkers was particularly important in—

(A) the movement of American soldiers in October of 1918 (including securing forward and exposed positions);

(B) the protection of supplies during American action (including protecting gun emplacements from enemy shelling); and

(C) in the preparation for the assault on German positions in the final stages of combat operations in the fall of 1918;

(12) in the opinion of the officers involved, the use of Choctaw Indians to transmit information in their native language saved men and munitions, and was highly successful;

(13) based on that successful experience, Choctaw Indians were withdrawn from frontline units for training in transmission of codes so as to be more widely used when the war came to an end;

(14) the Germans never succeeded in breaking the Choctaw code;

(15) that was the first time in modern warfare that the transmission of messages in a Native American language was used for the purpose of confusing the enemy;

(16) this action by members of the Choctaw Nation—

(A) is another example of the commitment of Native Americans to the defense of the United States; and

(B) adds to the proud legacy of such service; and

(17) the Choctaw Nation has honored the actions of those 18 Choctaw Code Talkers through a memorial bearing their names located at the entrance of the tribal complex in Durant, Oklahoma.

**SEC. 302. CONGRESSIONAL COMMEMORATIVE MEDAL.**

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall make appropriate arrangements for the presentation, on behalf of Congress, of a commemorative medal of appropriate design honoring the Choctaw Code Talkers.

## TITLE IV—SAC AND FOX CODE TALKERS

**SEC. 401. FINDINGS.**

Congress finds that—

(1) Sac and Fox Indians used their native language, Meskwaki, to transmit military code during Word War II;

(2) those individuals, who manned radio communications networks to advise of enemy actions, became known as the Sac and Fox Code Talkers; and

(3) under heavy combat action, the Code Talkers worked without sleep to provide information that saved the lives of many Americans.

**SEC. 402. CONGRESSIONAL COMMEMORATIVE MEDAL.**

The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall make appropriate arrangements for the presentation, on behalf of Congress, of a commemorative medal of appropriate design, to each of the following Sac and Fox Code Talkers of World War II, in recognition of the contributions of those individuals to the United States:

(1) Frank Sanache.
(2) Willard Sanache.
(3) Dewey Youngbear.
(4) Edward Benson.
(5) Judie Wayne Wabaunasee.
(6) Mike Wayne Wabaunasee.
(7) Dewey Roberts.
(8) Melvin Twin.

## TITLE V—GENERAL PROVISIONS

**SEC. 501. DEFINITION OF INDIAN TRIBE.**

In this title, the term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 4506).

**SEC. 502. MEDALS FOR OTHER CODE TALKERS.**

(a) PRESENTATION AUTHORIZED.—In addition to the commemorative medals authorized to be presented under sections 102, 202, 302, and 402, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall make appropriate arrangements for the presentation, on behalf of Congress, of a commemorative medal of appropriate design to any other Native American Code Talker identified by the Secretary of Defense under subsection (b) who has not previously received a congressional commemorative medal.

(b) IDENTIFICATION OF OTHER NATIVE AMERICAN CODE TALKERS.—

(1) IN GENERAL.—Any Native American member of the United States Armed Forces who served as a Code Talker in any foreign conflict in which the United States was involved during the 20th Century shall be eligible for a commemorative medal under this section.

(2) DETERMINATION.—The Secretary of Defense shall—

(A) determine eligibility under paragraph (1); and

(B) not later than 120 days after the date of enactment of this Act, establish a list of the names of individuals eligible to receive a medal under paragraph (1).

**SEC. 503. PROVISIONS APPLICABLE TO ALL MEDALS UNDER THIS ACT.**

(a) MEDALS AWARDED POSTHUMOUSLY.—A medal authorized by this Act may be awarded posthumously on behalf of, and presented to the next of kin or other representative of, a Native American Code Talker.

(b) DESIGN AND STRIKING.—

(1) IN GENERAL.—For purposes of any presentation of a commemorative medal under this Act, the Secretary of the Treasury shall strike gold medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary of the Treasury.

(2) DESIGNS EMBLEMATIC OF TRIBAL AFFILIATION.—The design of the commemorative medals struck under this Act for Native American Code Talkers who are members of the same Indian tribe shall be emblematic of the participation of the Code Talkers of that Indian tribe.

**SEC. 504. DUPLICATE MEDALS.**

The Secretary of the Treasury may strike and sell duplicates in bronze of the commemorative medals struck under this Act—

(1) in accordance with such regulations as the Secretary may promulgate; and

(2) at a price sufficient to cover the costs of the medals (including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the bronze medal).

**SEC. 505. STATUS AS NATIONAL MEDALS.**

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

**SEC. 506. FUNDING.**

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such amounts as are necessary to strike and award medals authorized by this Act.

(b) PROCEEDS OF SALE.—All amounts received from the sale of duplicate bronze medals under section 504 shall be deposited in the United States Mint Public Enterprise Fund.

## REAUTHORIZING THE LIVESTOCK MANDATORY REPORTING ACT OF 1999

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Agriculture Committee be discharged and the Senate proceed to the immediate consideration of H.R. 3408.

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

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3408) to reauthorize the Livestock Mandatory Reporting Act of 1999 and to amend the swine reporting provisions of that Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. HARKIN. Mr. President, the Livestock Mandatory Reporting Act was enacted by Congress in 1999 to level the playing field for independent producers. This Act is important because it improves market transparency by requiring packers, processors, and importers to provide critical price, contracting, supply and demand information to USDA, which in turn creates price reports for livestock producers.

Since the Livestock Mandatory Reporting program was implemented by USDA, I have heard repeated concerns from producers about the accuracy and overall transparency of the program. Since this law was due to sunset, to get as many facts as possible for purposes of reauthorizing this important law, Senator GRASSLEY and I requested an audit by the Government Accountability Office (GAO) to evaluate the accuracy of the program. This GAO audit found numerous instances of limited transparency and lengthy lag times by USDA in actions to correct problems when packers failed to report or provide accurate information, and instances where USDA was excluding packer data in price reports but not making information about the exclusions available to the public.

Thus far, USDA has provided very little information to Congress regarding USDA's implementation of the six recommendations made by GAO. In fact, USDA has known of many of the problems described by GAO since 2001, but failed to act. That is why there needs to be strong oversight by the Senate Committee on Agriculture, Nutrition and Forestry to ensure this program is functioning correctly and that GAO's recommendations are fully implemented.

Mr. GRASSLEY. I also call on Chairman CHAMBLISS to help Senator HARKIN and me get much-needed answers to what USDA has done to implement the GAO recommendations. There has been a lack of believability regarding the information generated by the Livestock Mandatory Reporting program, many producers across Iowa and many parts of the Nation feel strongly that the information would be more valuable if the program had more credibility through improved transparency.

Mr. HARKIN. I do believe that some of the GAO recommendations would be better implemented if codified in law. Senator GRASSLEY and I provided numerous farm and livestock groups and the packing industry draft legislation that would address the GAO recommendations and other outstanding producer concerns. This process has been difficult and has taken considerable time given the complexity of issues and diversity of the groups. Since a full consensus was not reached among these parties, the legislative changes will not be approved this year. Senator GRASSLEY and I ask that Chairman CHAMBLISS be willing to help us achieve these needed legislative changes in the next Congress.

Mr. GRASSLEY. Last year, Senator HARKIN and I introduced legislation, that passed the Senate by unanimous consent, that would extend the Livestock Mandatory Reporting Act for one-year to allow additional time to review the GAO recommendations and develop needed modifications to the law to improve the functioning and operation of the program. Unfortunately, the House refused to take up the bill and the law expired. I conditioned my support of any multi-year extension or revision of the Livestock Mandatory Reporting program on carrying out the GAO study results. Now we are at a crucial point with the legislative session coming to a close. Senator HARKIN and I realize that we are facing strong opposition from the packing industry on moving a Senate version that includes the GAO recommendations. I ask for assurances from Chairman CHAMBLISS that he will work with Senator HARKIN and me to move our proposed legislative changes forward.

Mr. CHAMBLISS. Mr. President, I agree with Senators HARKIN and GRASSLEY about the importance of the Livestock Mandatory Reporting Act (LMRA) to producers. For over a year, I have worked with the Senators from Iowa in their attempt to craft consensus language to which all interested parties could agree. I agreed to wait for a report from the Government Accountability Office, GAO, even though there was concern that the report would be released after the expiration of this important mandatory program. Since that time, packers have continued to consistently report on a voluntary basis limiting potential disruptions to the information provided by LMRA to the marketplace. While I understand my colleague's interest in implementing the recommendations from GAO, I am also concerned that all stakeholders—producers and packers—have comfort and assurance in this program and that any changes made to the program will minimize potential litigation and the false reporting of data.

I intend to work with Senators HARKIN and GRASSLEY to ensure that there is another opportunity to find consensus among interested parties in implementing further changes to the program. Next year provides an excellent opportunity to debate this and other issues of importance to the livestock industry during the farm bill reauthorization process. In addition, the Senate Committee on Agriculture, Nutrition and Forestry will conduct a hearing in the spring of 2007 that will focus on livestock issues which will allow us to explore any needed changes to the Livestock Mandatory Reporting Act.

Although the Senators from Iowa and I have worked diligently with livestock groups and the packing industry to address the concerns of all interested parties, we were not able to reach an agreement. Given the limited time before adjournment, I ask my colleagues to support H.R. 3408, which has passed the House, and will reinstate the mandatory provisions of this much needed program. As I said previously, I will continue to work with the Senators from Iowa next year on the farm bill to arrive at consensus legislation that all stakeholders can support.

Finally, I would like to commend all of the industry groups that have worked on this issue for over a year. The countless hours of negotiations, meetings, and debate are healthy and represent the American legislative process at its best. The complexity of this issue has unfortunately made it impossible to accommodate all the changes requested by the Senators from Iowa, but I commend them for recognizing the importance of this program for not only producers in Iowa, but producers across this great Nation. H.R. 3408 will provide price discovery and transparency to the marketplace, allowing all producers to confidently receive fair prices for their livestock.

Mr. HARKIN. I thank Chairman CHAMBLISS for his patience throughout

this process and willingness and commitment to help Senator GRASSLEY and me to get GAO's recommendations implemented. His commitment to help us pursue our legislative proposals next year is sincerely appreciated.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 3408) was ordered to a third reading, was read the third time, and passed.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar No. 893; provided further that the Foreign Relations Committee be discharged from consideration of the following nominations and that the Senate proceed to those en bloc: Senator COLEMAN (PN2044) and Senator BOXER (PN2043).

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations were considered and confirmed, as follows:

DEPARTMENT OF STATE

Cindy Lou Courville, of Virginia, to be Representative of the United States of America to the African Union, with the rank of Ambassador Extraordinary and Plenipotentiary.

UNITED NATIONS

Norman B. Coleman, of Minnesota, to be a Representative of the United States of America to the Sixty-first Session of the General Assembly of the United Nations.

Barbara Boxer, of California, to be a Representative of the United States of America to the Sixty-first Session of the General Assembly of the United Nations.

## ORDERS FOR THURSDAY, SEPTEMBER 21, 2006

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, tomorrow, September 21. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 30 minutes, with the first 15 minutes under the control of the Democratic leader or his designee, and the final 15 minutes under the control of the majority leader or his designee; further, that following morning business, the Senate resume consideration of the motion to proceed to H.R. 6061, the Secure Fence Act, and further, that notwithstanding the adjournment of the Senate, all time count against the motion under rule XXII.

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

## PROGRAM

Mr. MCCONNELL. Mr. President, today, we unanimously invoked cloture on the motion to proceed to the border fence act by a vote of 94 to 0. Unless an agreement is reached to begin earlier, we will begin consideration of that bill no later than 5:45 tomorrow afternoon. We will update Senators as to the voting schedule as we attempt to reach agreement on this bill, as well as any other legislative or executive items that may be considered.

## MEASURE READ THE FIRST TIME—H.R. 503

Mr. MCCONNELL. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 503) to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donation of horses and other equines to be slaughtered for human consumption, and for other purposes.

Mr. MCCONNELL. Mr. President, I ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

## ORDER FOR ADJOURNMENT

Mr. MCCONNELL. Mr. President, in conclusion, 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 following the remarks of the Democratic leader and Senator HATCH.

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

The minority leader.

## AGRICULTURAL WORKERS

Mr. REID. Mr. President, I was in my office and listened to the distinguished senior Senator from Idaho talk about the bill that is before the Senate, the so-called fence bill. I have great respect for the distinguished senior Senator. We have served together in the House and the Senate. He talked with great emotion about the agricultural workers and how people are losing crops as a result of not having sufficient agricultural workers and that it was extremely important that we have agricultural worker legislation.

I heard my friend, the distinguished senior Senator from California, Mrs. FEINSTEIN, talk about agricultural workers and how important they are. She gave vivid illustrations of how they are important. I agree with both, but I am stunned that the Senator from Idaho appears to only be talking and not being meaningful in what he is saying about agricultural workers.

''Congress Daily PM,'' which is a publication put out on a daily basis by the National Journal, says as follows:

Senator Larry Craig, Republican of Idaho, would like to offer his amendment which would streamline certification for migrant farm workers, language that was included in the Senate's immigration package.

Listen to this one, though, this final sentence:

Craig spokesman said the Senator would not offer his amendment if it would hold up consideration of the House-passed bill.

We have a bill before the Senate. No one has any intent of holding up the bill, but there are some important amendments that people want to offer. According to the Senator from Idaho, he feels his agricultural workers provision is pretty important. Then why shouldn't we be able to offer some amendments on this? Why shouldn't we be able to offer one amendment, an agricultural workers amendment? Why shouldn't we be able to offer two amendments, three amendments with time on them?

I am told the majority leader is going to fill the tree—that is a buzzword around here for having the majority lock up this legislation so no amendments are possible.

My friend from Idaho cannot have it both ways. He cannot be righteously indignant about the fact we are not having an opportunity to help agricultural workers and then, in effect, throw in the towel and say he is going to do nothing about it.

He is part of the majority party; we are not. We cannot do much about it, but he can.

## MIDDLE-CLASS SQUEEZE

Mr. REID. Mr. President, I want the record to reflect that I appreciate very much Senator STABENOW, Senator REED, and Senator SARBANES coming here today and talking about something we haven't talked about much in recent weeks. The Republicans wanted to make this September ''security month.'' So we have devoted all of our time talking about the failure of the war in Iraq and the war on terrorism. We know that the war in Iraq has been a diversion to the real war on terror, but that is what they want to talk about.

I am so grateful that my friends came and talked about the economy. It

is an issue that deserves to be a top priority of this Congress but has been ignored for years—the need to strengthen America's middle class. Our country has always been a land of opportunity. As a nation, we take pride that all Americans, no matter where they begin in life, have the opportunity to work hard, get ahead, and prosper. It is called the American dream, and it is what our country is all about.

Unfortunately, while it is still possible for Americans to do well, it is getting harder and harder all the time. America's middle class faces ever increasing obstacles. Incomes are going down, but costs are going up. More and more middle-class families are being squeezed, and this Congress has done nothing to stop that.

Let's look at the facts. There really is a middle-class squeeze under this Republican administration. Real household income has declined during the tenure of President Bush. It has declined by $1,273 a year. That is pretty significant. This is median inflation adjusted household income. It was $47,599 in 2000. Here is what it is 5 years later, $46,326. That is not a record anyone should boast about.

The rich have been able to do much better. The average tax break for somebody over $1 million is about $38,000, where for someone under $50,000, the tax break has been about $6.

In addition to the household income declining, basic costs of the middle class have gone up. The rich are getting richer, the poor are getting poorer, and the middle class is getting squeezed.

The cost of going to college in these 5 years has gone up 44 percent. Health insurance premiums, when one can find health insurance, has gone up 71 percent. We are up to over 47 million Americans now with no health insurance and millions of others who are underinsured. Energy costs certainly have gone up. Parents are paying $3,700 more than they were 5 years ago. Health insurance, if one can buy it, is up $4,500 in the last 6 years. You are paying more.

This story only tells half the story. As families struggle to afford what they need, they also find themselves less secure. Since President Bush took office, 3.7 million more Americans are without employer-sponsored retirement plans. Almost 7 million more Americans are without health insurance, and millions more are carrying significant debt.

Since 2000, household debt has increased by 35 percent, or more than $26,000. When we put all this together—declining incomes, skyrocketing prices, rising insecurity—it is no wonder the economy remains a top concern for the American people. The kitchen-table concerns are issues that matter most to families, yet they are also the issues that are routinely ignored or made worse by this Congress that has been given the name ''do-nothing Congress,'' and rightfully so.

Just listen to Washington Republicans to see how out of touch they are. They are convinced the economy is doing great. They believe we should stay the course. We not only want to stay the course in the war in Iraq, according to the President, we want to stay the course with the economy, even as families struggle like never before.

We can do better than the Republican record of failure—much better. We can take a new direction, and it starts by putting the middle class first for a change.

Democrats have developed a variety of proposals addressing the middle-class squeeze, but every time the Republican majority has blocked our efforts so they can help special interests.

As to rising gas prices, we proposed a ban on price gouging. The prices have dropped down. They are going to go back up. There is nothing that has changed substantially. All we need is a problem in Nigeria or another storm. The majority blocked our price-gouging legislation. They blocked it on behalf of the oil and gas industry. But, of course, they should, Mr. President, because this is the most energy-friendly administration we have had in the history of our country.

To lower the cost of prescription drugs, Democrats proposed repealing the Republican ban on negotiating for lower prices in Medicare, but the majority blocked that on behalf of the pharmaceutical lobby.

To bolster middle-class incomes, Democrats proposed ending tax breaks that encouraged companies to outsource jobs overseas, but the majority continues to support these tax breaks at the behest of multilevel, multinational corporations.

To cut college costs and help more Americans get ahead, we proposed making college tuition deductible from taxes. That is gone. The majority pushed through the largest student aid cut in the history of our country and allowed the college tuition deduction to expire even while pushing for huge tax breaks for special interests and multimillionaires.

The bottom line is that all too often in Republican Washington, special interests rule while the middle class is left behind. As I said, the rich are getting richer, the poor are getting poorer, and the middle class are getting squeezed, and it has never been so apparent as during these last 6 years. America literally cannot afford to stay the present course.

While Washington Republicans have been ignoring the plight of the middle class, they have been digging our Nation into a budget hole that will take decades to correct. As Senator CONRAD has explained so powerfully, since 2001, our national debt has exploded from $5.8 trillion to $8.5 trillion. The debt will double to $11.6 trillion by 2010.

The debt owed to foreigners has already doubled. The United States has borrowed more from overseas interests—that is foreign countries—during the Bush Presidency than we borrowed during all previous Presidencies combined. I think that is irresponsible, and our children and our grandchildren will pay the price.

We have several Democratic Senators who are experts on the economy who have come and spoken. Senator SARBANES, who sadly will retire at the end of this year, has been a wonderful Senator. He has handled the Banking Committee with expertise, and I so appreciate his coming to the floor today and talking about this issue. Our Democrat on the Joint Economic Committee, JACK REED, has done a wonderful job.

But I want to return to my main point. We need a new direction in America, one that strengthens the middle class. We believe it is long past time Washington focused on the people who work hard every day, play by the rules, and are the backbone of our Nation. They are being ignored, and they need our help. Our goal is not for Government to spend more; it is for families to spend less—less for college, less for health care, less for fuel, less for energy—all while enjoying an opportunity to succeed and prosper in the global economy and a chance at the American dream.

Mr. President, for 10 years, to show how little this Republican-dominated town feels about the poor, we have been unable to increase the minimum wage. When President Clinton was President, we tried and a filibuster by Republicans stopped us. The minimum wage—we believe Congress and Washington should focus on ways to help make the American dream come true, to help all Americans achieve their dreams. But to do that, we need to change course by, at long last, standing up to special interests and standing up for the common good. That is the Democratic vision. That is the new direction we seek. America's middle class in our Nation deserves no less.

## U.S. ECONOMY CONTINUES TO PROSPER

Mr. HATCH. Mr. President, I have been very interested in the remarks of the distinguished Democratic leader, my friend, and I approach this issue from not just a slightly different perspective but from a very different perspective. I think it is important that we get our facts straight.

The robust health of the U.S. economy becomes more apparent with each passing day. Yet it is something about which we hear precious little except criticism, especially on the Senate floor. I would like to take just a few minutes to remind my colleagues about some of the positive aspects we are seeing about the state of the economy.

As we complete the fifth year of economic expansion, all signs indicate that the economy is as strong as it has ever been, and that we can expect continued economic growth for the foreseeable future. When President Bush became President, we were in the

throes of an economic recession at the end of the Clinton years. He inherited that, and the first year of his Presidency was filled with a recession. But in the last 5 years, we have had an economic expansion. The U.S. economy grew at an annual rate of 4.6 percent in the first half of this year, and that is an impressive clip at any time, but particularly so for a mature economy approaching full employment.

Economic forecasters estimate the gross domestic product in the current quarter will come close to 3 percent. While initially we may not welcome a reduction in the rate of growth, a 3-percent rate is actually very positive news. This is because a growth rate of around 3 percent would put us at a level of growth that many economists believe can be sustained indefinitely without risking inflationary pressures. It is mystifying to me that an economy this strong that has grown steadily for 5 full years now is not being recognized by everyone for what it is; namely, a remarkable jobs-producing machine. We have created 3.5 million jobs in the last 3 years and have more people employed today than ever before in the history of this country.

The unemployment rate is only 4.7 percent, a level that is below any rate seen in the United States between 1970 and 1997. Think about that: a rate below any rate seen in the U.S. between 1970 and 1997.

No matter how one cuts the numbers, the news on the job front of late has been good. The number of long-term unemployed is down, as is the unemployment rate for teenagers, women, African Americans, Hispanics, people without a high school degree, and people with only a high school degree.

While energy prices might have pushed the Consumer Price Index up a bit earlier in the year, I believe there was never a risk of higher inflation, and the financial markets now discount this possibility almost entirely. As Nobel Laureate Friedman put it:

> Inflation is always a monetary phenomenon. As long as the Federal Reserve commits to contain inflation, we should not worry.

I think Ben Bernanke has demonstrated his determination to keep the scourge of inflation under control, and for that he deserves commendation. I believe his decision today to leave the short-term discount rate where it is makes perfect sense, given the recent data.

The benefits of sustained economic growth, the likes of which we have seen over the last 5 years, cannot be overstated. We are just now beginning to reap its benefits in the form of higher incomes for American workers. Median household incomes, stagnant since the 2001 recession, went up by 1.1 percent after adjusting for inflation in 2005. Now, that is median household income.

Contrary to the gloom and doom we are hearing from the other side on this floor, it went up by 1.1 percent, after adjusting for inflation in 2005. That is after the adjustment for inflation.

The preliminary data for 2006 suggests that income growth has accelerated strongly, with even the New York Times reporting an estimate that inflation-adjusted wages and salaries have gone up an annual rate of 7 percent thus far this year. This is a pattern that would be entirely consistent with what we witnessed during the expansion of the 1990s, one that ultimately lifted millions of households out of poverty. Yet all we hear is doom and gloom. That is what happens when people want to gain power.

The Federal Government has also benefitted from the sustained economic growth. Tax revenues—and this is with the tax cuts that we put in, and because of the tax cuts we put in over the past 5 years—have grown at the fastest rate since the inflationary 1970s. You can't discount that, no matter how much doom and gloom you spread all over this body. Revenue went up by nearly 15 percent last year, and as we approach the end of the current fiscal year, it is likely it will go up 12 percent this year. That is phenomenal.

In 2006, we will collect over a half of a trillion dollars more than we did in 2004—a truly awesome amount. The budget deficit has shrunk rapidly over these same 2 years, from $412 billion in 2004 to roughly $260 billion in 2006. Now, it is still too high, but as a percentage of GDP, it is one of the lowest over the last 40 years. That can't be discounted, in spite of the doom and gloom that we hear consistently on this floor.

The Congressional Budget Office was forecasting a budget deficit of $100 billion larger than that as recently as March. Let me repeat, $100 billion larger than the $260 billion it was projected to be as recently as last March. Again, the strong budget growth we have benefitted from of late is reminiscent of what occurred in the late 1990s once the economy reached full employment and productivity growth picked up. It is also instructive to look at exactly where the additional tax revenues are coming from.

Now, let's get this straight because I get so tired of hearing the rich are getting richer and the poor are getting poorer. That is a slogan that really is pure folly. The top 1 percent of all earners—the top 1 percent of all earners—receive about 16 percent of all income but pay over 34 percent of all taxes. Let me repeat that. The top 1 percent of all earners receive about 16 percent of all income but pay over 34 percent of all taxes. The top 10 percent of all earners are paying two-thirds of all the taxes paid in this country—the top 10 percent.

Mr. President, 97 percent, all but 3 percent, 97 percent of all income tax revenue comes from the top 50 percent of all wage earners. That doesn't sound to me like the rich are getting richer. What the other side always seems to forget is that, in this great country, the middle class consistently rises to a higher position because of the opportunities in this country if we continue to provide opportunities for economic growth through tax rate reductions and other methodologies.

When you say that the top 50 percent of all earners pay 97 percent of all income tax revenues, this means that the bottom half of income earners in this country are paying only 3 percent of all income taxes collected. Many of them do not pay anything. Many of them get money from the Federal Government for living. No one can correctly say that the rich are not paying their share of taxes.

Let me go over that again. The top 1 percent pay 34 percent of all income taxes. The top 10 percent are paying two-thirds of all income taxes. The top 50 percent pay 97 percent of all income taxes. The bottom 50 percent pay only 3 percent, and many of those do not pay income taxes at all.

No one can correctly say that the rich are not paying their share of taxes or that this economy is not a good economy. We all wish it could be even better, but when you have an economy as diverse as ours, as complex as ours, it is hard to say that this is not a good economy.

Those who have complained that income growth lagged behind the rest of the economy in the early years of the current economic expansion were absolutely correct. I share their frustration that it takes so long for income growth to permeate throughout all income levels. It is not enough to tell someone who is out of work or has been forced to take a pay cut that once the unemployment rate falls a bit more wages should pick up.

The Government should do what it can to help lift people out of poverty. Republicans and Democrats agree on this. It is not just the Democrats. We all agree on that. So to present this like only Democrats care, that is pure bunk.

However, the answer to this problem is not to take actions that would jeopardize economic growth. The solution is to keep the economy as strong as possible while making sure that those who get hurt by a faltering economy have the means to get up again, to help those who are underemployed or who are unemployed. We improved and expanded the earned-income tax credit, provided new funds for training and education, and during the recession we increased the duration of unemployment insurance.

Let's be honest about it. Both Republicans and Democrats care for those who are suffering or those who have not been doing as well. But the Democratic solution seems to be, let's increase taxes so we can spend more from the Federal Government. We know what that is going to do. That is going to stifle this economy and economic growth and hurt all those who are paying into the system. Above all, it will hurt those who aren't paying into the system, who are the poor. That seems to be the only solution they have. They

don't dare say that is their solution, but it is.

Should the Democrats take control of the Congress, you can absolutely bet that the tax cuts that we enacted will not be continued and that the economy is going to go into the tank. You can absolutely guarantee it.

Ultimately, it is productivity growth that improves the standard of living, plain and simple. Productivity growth has been exceptionally high for the last decade, and I aim to work to keep it that way by encouraging companies to invest in new plant and equipment, by encouraging workers to invest in training and education, and to do my part to say that Government keeps spending and taxes low and allows our businesses to compete as best they can.

The rewards may not be immediate. But the incredible engine that is the U.S. economy owes its success to these simple precepts.

Mr. President, I also know, and I notice the distinguished Senator from Nevada made the point, that energy is a very important matter to us. He said gas prices are going to go up again. That is going to be true if we do not have a consistently good energy policy. In the Republican energy bill, I put five bills in there myself. One to give incentives to recover the almost 1 trillion barrels of oil from oil tar sands and oil shale deposits in western Colorado, southern Wyoming, and eastern Utah. There are 3 trillion barrels of oil there, but we, according to the experts, can recover 1 trillion barrels of oil.

To put that in perspective, the whole Middle East's proven reserves are 760 billion barrels. So we have more oil in tar sands and oil shale than all of the Middle East. The problem is it is going to cost us about $34 a barrel under current methodology and current technology to produce that oil, where it costs only 50 cents a barrel for Saudi crude.

If we move in that direction, we are going to be able to be less dependent upon other countries' oil, especially countries that hate the United States of America, like Venezuela—at least the leadership does. I don't think the people of Venezuela do.

We also put in better permitting language. The radical environmentalists have made it almost impossible to get permits to be able to develop these resources.

Third, we put in that bill incentives to develop our geothermal resources. It is estimated that Utah geothermal wells alone could produce electricity for upwards of 22 million homes. That is about 66 million people. That is almost the whole West, right from one small State. Big in geography, small in population: only 2.5 million people. The fact is we can do that. Now the incentives are in that bill. They are not as good as I would have had them, but they are better than what we had before that bill.

Most people do not realize that we have lost 250 oil refineries over the last 40 years and only built one. It is almost impossible to build an oil refinery because of radical environmentalists. The fact is, we have to build more oil refineries as long as we are dependent on oil refineries for our major source of fuel, for automobiles, trucks, trains, planes, et cetera. We have to wake up and start doing some of these things.

Last but not least, my little CLEAR Act is in that bill to give economic incentives to develop alternative fuels, alternative-fuel vehicles and alternative-fuel infrastructure. It is a little bill that helped drive the hybrid auto industry into existence. Now we are talking about plug-in hybrids. We are talking about hydrogen cars. To get the hydrogen—we only have 9 million tons of hydrogen in this country. We need 150 million tons before we can actually make that a viable fuel and put it in real cars. We are capable of doing it now, but it would be the equivalent of about $3.60 a gallon of gas.

We are going to have to develop cookie-cutter nuclear powerplants so we can develop this hydrogen and have totally clean fuel in our country, from hydrogen cars that will work just as well as gasoline-driven cars. We are a few years away from that, but it is possible to do that if he we wake up and start really thinking about the environment the way we should.

If there is such a phenomenon as global warming—I believe there is—this will be one of the ways of making our contribution to reducing the greenhouse gases, among other things.

We hear a lot of complaints on the other side about the economy. My gosh, these figures have not been met hardly at all in the last 50 years—until now. I think the President, the Republican Congress, and a number of Democrats who have supported us deserve a lot of credit for at least having us where we are. Can we improve? We hope so, and we are going to do everything in our power to do it, but I know one way we can't improve is increasing taxes, increasing Government or having more Government controls, having more regulations, which always seems to be the case when the Democrats take over the Congress. It is certainly going to be the case if they do it this time, and I don't believe the American people are going to put up with that.

I think what I am saying here today is that we cannot listen to cliches and slogans and doom-and-gloom prophecies. We have to work hard to get things done. We have the elements here to do it.

There were comments made about the minimum wage, that we haven't had an increase in 10 years. The so-called trifecta bill would have increased it to $7 an hour, and maybe, if it was a true debate, the Democrats could have won on even a higher minimum wage. All we asked for is that we have some modest estate tax reform, which almost everybody admits would be beneficial to the economy at large and to our families, and especially small businesses that could lose their businesses—small farmers, family farmers, who could lose their farms. But, no, that was stopped by a filibuster, which has become the principal means of obstruction ever since the George Mitchell days when he filibustered.

I thought he was a great majority leader. Don't anybody misconstrue what I am saying. He was, but he was tough. But he started to filibuster everything he disagreed with, or the Democrats disagreed with. Of course, here we are today doing the same thing.

I would like to see us get rid of partisanship, where we can work together in the best interests of our country, without the mouthing off about how bad one side or the other side is, and really do what we were really sent here to do. I admit that we are in an election year and people want to win. So things are said that probably wouldn't be said in a non-election year. I would like to even tone that down a little bit and let's recognize the economy is a good economy. Could it be better? I doubt under the circumstances, but we can all work to try to make it better.

Are some people suffering in our society? I said in my remarks today that there are, and we ought to work to try alleviate that. We have done a lot to alleviate that.

As I have said, the bottom 50 percent only pay 3 percent of all Federal income taxes, and many of them don't pay taxes at all. A goodly number of them get help from the Federal Government. And that is from both parties, not just the Democratic Party. That is because in the past we have worked in bipartisan ways to do these things.

I hope we can continue that. I wish we could get rid of the obstructionary tactics that we have had on judges and some other issues over the last number of years.

I wish we could get behind whoever the President the United States is, and especially right now. President Bush is trying to do the best he can to stem the tide of terrorism in the world, but he also is doing a good job with regard to the economy with hopefully our help.

Whoever the President is the next time, I hope, whether it is a Democrat or a Republican, that we can work together in the best interests of our country. It would be a wonderful, pleasant change from the last 10 years that I have seen. Both parties are at fault. I am not saying equally, but both parties have reason to improve. All I can say is, how do you knock an economy that is clearly as good as this one is and continue to bad-mouth it when in fact the facts all show otherwise? I don't know how they can continue to drumbeat this day in and day out by some on the other side who know that is wrong.

I yield the floor.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 tomorrow morning.

Thereupon, the Senate, at 6:42 p.m., adjourned until Thursday, September 21, 2006, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 20, 2006:

SOCIAL SECURITY ADMINISTRATION

MARK J. WARSHAWSHY, OF MARYLAND, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2012, VICE HAROLD DAUB, TERM EXPIRED.

DANA K. BILYEU, OF NEVADA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2010, VICE GERALD M. SHEA, TERM EXPIRED.

DEPARTMENT OF STATE

BARBARA BOXER, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIRST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

NORMAN B. COLEMAN, OF MINNESOTA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIRST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

CECIL E. FLOYD, OF SOUTH CAROLINA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIRST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

INTER-AMERICAN FOUNDATION

KAY KELLEY ARNOLD, OF ARKANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2010. (REAPPOINTMENT)

GARY C. BRYNER, OF UTAH, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2008, VICE NANCY DORN, TERM EXPIRED.

THOMAS JOSEPH DODD, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2008, VICE NADINE HOGAN.

HECTOR E. MORALES, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2010, VICE JOSE A. FOURQUET, RESIGNED.

JOHN P. SALAZAR, OF NEW MEXICO, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2012, VICE ANITA PEREZ FERGUSON.

THOMAS A. SHANNON, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2012, VICE ROGER FRANCISCO NORIEGA.

JACK VAUGHN, OF TEXAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING SEPTEMBER 20, 2012. (REAPPOINTMENT)

IN THE COAST GUARD

THE FOLLOWING NAMES OFFICERS OF THE COAST GUARD PERMANENT COMMISSIONED TEACHING STAFF FOR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES COAST GUARD UNDER TITLE 14, U.S.C., SECTION 188:

*To be captain*

PAUL S. SZWED, 0000

*To be commander*

BRIGID M. PAVILONIS, 0000

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL IN THE ARMY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

GEN. DAN K. MCNEILL, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIG. GEN. WILLIAM C. KIRKLAND, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF NAVAL OPERATIONS, UNITED STATES NAVY AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 5035:

*To be admiral*

VICE ADM. PATRICK M. WALSH, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. JOHN J. DONNELLY, 7223

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. THOMAS J. KILCLINE, JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. MELVIN G. WILLIAMS, JR., 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

*To be major*

ANDREA R. GRIFFIN, 0000

THE FOLLOWING NAMED INDIVIDUAL TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

RUSSELL G. BOESTER, 0000

## DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

BARBARA BOXER, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIRST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

NORMAN B. COLEMAN, OF MINNESOTA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIRST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

## CONFIRMATIONS

Executive nominations confirmed by the Senate Wednesday, September 20, 2006:

DEPARTMENT OF STATE

CINDY LOU COURVILLE, OF VIRGINIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE AFRICAN UNION, WITH THE RANK OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

BARBARA BOXER, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIRST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

NORMAN B. COLEMAN, OF MINNESOTA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTY-FIRST SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

## WITHDRAWALS

Executive Message transmitted by the President to the Senate on September 20, 2006 withdrawing from further Senate consideration the following nominations:

NADINE HOGAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2008, VICE FRANK D. YTURRIA, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON JANUARY 24, 2005.

JOHN E. MAUPIN, JR., OF TENNESSEE, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2010, VICE GERALD M. SHEA, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 6, 2005.

NADINE HOGAN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE INTER-AMERICAN FOUNDATION FOR A TERM EXPIRING JUNE 26, 2008 (REAPPOINTMENT), TO WHICH POSITION SHE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE, WHICH WAS SENT TO THE SENATE ON FEBRUARY 10, 2006.